

## ESTATE PLANNING WITH THE DUAL VIEW (LEGAL AND ACCOUNTING)

We have been preparing estate plans since 1993 using the dual view promoting "*The Mind at Peace*" estate plan. Starting on page two, this Newsletter explains our approach to Estate Planning which includes an Accountant's spread sheet (See Exhibit A). We also address our firm's Advance Directive for Health Care Guide and Instructions (See Exhibit B). Page one is a recap of the basic estate planning concepts.

### I. AVOIDING PROBATE

Probate is expensive in Oklahoma, and thus an estate plan should work to avoid it. The main problems with an Oklahoma probate are:

- It is a public record of your affairs and assets.
- The legal process is time-consuming, typically taking at least 6-12 months to administer while taking up considerable time of the beneficiaries.
- The legal fees are expensive due to numerous hearings, and of course that reduces what is transferred to your beneficiaries.
- Probate is stressful for the family, the executor, beneficiaries, etc. because you are not there to make the decisions.

### II. WHAT IS ESTATE PLANNING?

- Estate planning involves arranging your affairs utilizing the body of laws covering trusts, wills, taxes, probate, family law, insurance, property, LLCs, corporations, banking, etc.
- Some smaller estates can be properly planned with Joint Tenancy Deeds or Transfer on Death deeds (TODs) and by utilizing Pay on Death Bank accounts (PODs).
- Sometimes utilizing a combination of PODs, TODs, a Will, and a General Durable Power of Attorney can make an effective, quick, and effective simple estate plan.
- Although the simple plan is almost always better than no plan, its simplicity carries risk that can be avoided and thus are generally not appropriate for larger estates or addressing the long-term issues. Thus, the addition of a Will and a Revocable Trust may be advisable.

### III. THE WILL & REVOCABLE TRUST

- A Will can reduce the risks inherent with PODs, TODs, etc. A Will is a written document by which you make provisions for the disposition of your property upon your death, select a personal representative, and appoint guardians for minors. Although a Will does not avoid probate and does not provide for a plan for mental or physical incapacities, it can certainly enhance the simple estate.
- The Revocable Trust can take the Will a step further. Revocable Trusts are legally *Inter-Vivos* trust because it an instrument made between the living; thus, it is sometimes referred to as a "Living Trust." All trusts are legal entities with four elements: (1) property, (2) a trustee, (3) trust terms and conditions, and (4) beneficiaries.
- A grantor, and many times a married couple as joint grantors, create the Living Trust by signing a "trust instrument." It is "revocable" in that it allows amendments to the terms and conditions. For the trust to be effective, it must have property titled in the trust's name. The grantors are usually the current beneficiaries and the trustees. Thus, it is operative during and after one's life.
- Upon the death of the grantors, a second person or entity becomes the trustee. The successor trustee distributes the trust's assets according to the terms and conditions of the trust. Therefore, a Living Trust is similar to a Will because it distributes property after someone passes away.
- Unlike a Will, however, the Living Trust avoids probate if prepared well, and all of a decedent's property is *accounted* for in the estate plan. Our Accountant's Asset and Debt spread sheet helps make all the property is accounted for.

#### IV. THE ACCOUNTANT'S PERSPECTIVE

- Exhibit A (Insert) is our Accountant's Perspective Estate Planning balance sheet for John and Jane Doe. We employ accounting techniques to identify all the property, then organize the assets in major categories per the Balance Sheet example (Column #1). After determining ownership of the asset as well as its legal title, our next step is to ascertain values or at least an approximate value (Columns #2 to #4).
- Column #5 "Testamentary Disposition" has references to the estate planning transfer document. Testamentary means "upon death." Column #5 helps everyone understand the purpose of each document, which assists in carrying out the intent of the client. Exhibit A sums up for John and Jane Doe the following: (1) they have determined almost all their assets will "pass" pursuant to their Revocable Trust; (2) the bottom of the spread sheet states the primary intent of the Revocable Trust; (3) Jane desires her 25 art pieces to be split pursuant to a writing she has prepared and will be referenced in the Will and Trust; (4) there exists a small off-trust "carve out" utilizing a POD account for their only grandchild; (5) the pension plans and life insurance "transfer" per beneficiary designation forms with the account custodians and the life insurance company.
- Column #6 is the "check list" of the action items required by either our firm or the client for titling and transfer. The transfers add property to the trust to carry out the dispositive provisions. Our firm works with the client to make sure each action item has been completed.

#### V. OUR ADVANCE DIRECTIVE HEALTH CARE GUIDE & INSTRUCTION

- An Advance Directive for Health Care (ADHC) is part of a complete estate plan. The purpose of an ADHC is to provide guidance to your family and healthcare professionals in the event that you are unable to communicate your wishes.

- It can be an effective document establishing health care plans, regardless of your age or health status. If there is no plan in place and you become unable to make medical decisions yourself, it can create confusion and stress among family members and health care professionals.
- To assist the parties involved, the ADHC addresses several specific courses of action for separate health scenarios as well as the option to write in your own instructions.
- In our experience, the Oklahoma statutory ADHC form can be confusing with its array of options and circumstances. To help remedy the ADHC complexity, our firm has developed the "Advance Directive Health Care Guide and Instructions" memo. Please see the enclosed Exhibit B.
- All of our team members contributed to the guide's development. Perhaps, though, our medical clients contributed the most. An ER doctor helped us better understand artificial nutrition. We worked with a Physician Assistant client to develop our recommended "Palliative Care" instructions. An Emergency First Responder provided us with examples to further understand the definitions of and differences in: (a) Terminal Conditions, (b) Persistently Unconscious, and (c) End of Life Stage Conditions. Thank you to all clients who contribute to our knowledge base.

#### VI. ESTATE PLANNING CONCLUSION

- Estate planning involves lots of uncertainty. We are committed to providing a streamlined and informative process to help resolve doubt to yield a better result for our clients. Call 918-901-9000 or email [TheOffice@paulhburgess.com](mailto:TheOffice@paulhburgess.com) to get started with your Estate Plan.
- **Current Client Discount (10%):** We build lasting relationships and employ our prior knowledge of business and tax affairs to design an estate plan for your circumstances. Existing tax and accounting clients receive 10% off our estate planning services!

## Estate Planning with an Accountant's Perspective

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<i>Column #1</i>	<i>Column #2</i>	<i>Column #3</i>	<i>Column #4</i>	<i>Column #5</i>	<i>Column #6</i>
John & Jane Doe Estate Planning Balance Sheet Asset Description	Schedule A John's Assets	Schedule B Jane's Assets	Total Value of Assets	Testamentary Disposition Pursuant to	Notes for Check List, Transfer Instruments, and Due Diligence Matters
<b>I. Bank and Financial Accounts</b>					
Checking Acct - Personal Operating	10,000		10,000	Revocable Trust	Change Title to the Revocable Trust at Bank #1
The Stocks and Bond Account		175,000	175,000	Revocable Trust	Change Title to the Revocable Trust at the Brokerage Firm
Money Market Account		15,000	15,000	Revocable Trust	Change Title to the Revocable Trust at Bank #1
Jane Savings Account		80,000	80,000	Revocable Trust	Change Title to the Revocable Trust at Bank #2
Savings Account (Jane's) for sole Grandchild - Janet Doe		15,000	15,000	Pay on Death Account	Change the Account at Bank #2 to a POD Account for Janet Doe if she survives Jane
<b>II. Privately Held Businesses</b>					
John Doe Business, LLC (JDB, LLC)	2,370,000		2,370,000	Revocable Trust	Transfer to Revocable Trust with Assignment; Make Sure Jane or another trusted individual can sign JDM, LLC's checks
Phase II of Estate Plan is Succession Planning for JDB, LLC				To Be Determined	Calendar in 30 days to Start the Succession Planning for John's Business
Jane's Rentals LLC (Rental Properties)		990,000	990,000	Revocable Trust	Transfer to Revocable Trust with Assignment - Verify the homes are titled in the LLC
Jane's Rental LLC Checking Account		21,000	21,000	N/A	Verify the Checking Account is in the LLC's name and John or another trusted individual can sign checks, and collect rents
<b>III. Personal Residence in Jane's Name (Tulsa, OK)</b>					
		454,000	454,000	Revocable Trust	Jane Transfers "her home" to the Revocable Trust per a Quit Claim Deed
<b>IV. Pension Plans and Annuities</b>					
John 401(k)	162,000		162,000	Per Custodian Records	Verify Beneficiaries with Custodian at Bank #1- To Jane and then to Doe children, per stirpes
Jane IRA		483,000	483,000	Per Custodian Records	Verify Beneficiaries with Custodian at the Brokerage Firm - To John and then the Doe children, per stirpes
<b>V. Life Insurance</b>					
Jane's Policy at Work		50,000	50,000	Contract with Company	Verify the Beneficiary Designation Form with the Life Insurance Company is all to John, then the Doe children, per stirpes
<b>VI. Automobiles</b>					
Jane's 2023 SUV		50,000	50,000	Revocable Trust	Change Title at Dept. of Motor Vehicles (DMV) to the Revocable Trust
John's 2019 Pick-Up	40,000		40,000	Revocable Trust	Change Title at DMV to the Revocable Trust or if it is a JDB, LLC Truck, make sure the title is in the business name
<b>VII. Personal Property</b>					
John and Jane's Personal Property at the Residence	28,000	28,000	56,000	Revocable Trust	Transfer per General Assignment and Bill of Sale to the Revocable Trust
Jane's Art Collection (25 pieces)		50,000	50,000	Revocable Trust	Transfer per General Assignment and Bill of Sale to Revocable Trust; sign the Writing of which child receives which Art piece
<b>Less: Debts and Mortgages</b>	(21,000)		(21,000)	N/A	Automobile Debt on John's Truck - No Estate Planning Issues with Respect to the small Debt
<b>Approximate Net Worth for Estate Planning</b>	<b>\$ 2,589,000</b>	<b>\$ 2,411,000</b>	<b>\$ 5,000,000</b>	Asset Identifications and Valuations are from John and Jane Records, Tax Returns, and notes from Estate Plan Meeting	

*General Terms of the Revocable Trust: (1) each Spouse "Owns" the Assets Per Sch A and B, and can withdraw same from the Trust; (2) all goes to the Surviving Spouse; and (3) after the Survivor passes, to the Doe Children, per stirpes.*

**Exhibit A**

**Exhibit A**

## Advance Directive for Health Care Guide and Instructions

May 2023 – Newsletter Sample

### Via Email

John and Jane Doe  
1234 Estate Drive  
Tulsa, OK 74119  
jdoe@fake.domain

*Re: Your Advance Directive for Health Care*

Dear Mr. and Mrs. Doe:

Attached is your draft for Advance Directive for Health Care ("ADHC"). We have spoken about the appointment of your Health Care Proxies in Article II and the draft includes your selections. In our experience, Article I is difficult for most everyone. This Memorandum provides guidance for Article I. We suggest you print your ADHC draft, then fill it out and bring it to our signing meeting to use as a guide.

**Article I – Living Will** has three parts (A, B, and C) addressing three medical scenarios. Part A addresses a "**Terminal Condition**" which cannot be cured, such as many forms of dementia. Part B addresses a "**Persistently Unconscious**" state such as a car crash leading to loss of communication and awareness (vegetative state). Part C addresses an "**End-Stage Condition**" for which treatment will not improve chances of recovery, such as cancer.

There are three specific courses of actions you may choose to initial to help direct a medical team for each of the above scenarios. Option #1 is "provide food and water artificially if needed, but little else." Option #2 is "do very little to nothing and allow me to pass." Option #3 is "do all you can for me to keep me alive."

Part D of Article I allows for adding specific instructions. The following may be helpful: consider writing in "Palliative Care in all circumstances" for Section D-3. **Palliative Care** is specialized medical care that focuses on providing patients with relief from pain and other symptoms of a serious illness, no matter the diagnosis or stage of disease. Palliative care teams aim to improve the quality of life for both patients and their families.

There are, of course, many possible scenarios besides those listed above. The above are simple and common examples that can help guide your decisions.

**Exhibit B (over)**

## Article II - Anatomical Gifts – What does this mean?

Most states have laws regarding gifting body parts, commonly known as anatomical gifts. By signing, initialing, and dating an "Advance Directive for Healthcare", an individual can make an anatomical gift at the time of their death of *all* or *part* of their body for (a) medical education, (b) scientific research, or (c) organ transplantation.

You may have first learned about anatomical gifts with your driver's license. It, too, is partially a product of Anatomical Gift laws. Your Advance Directive for Health Care is more extensive than the choices relating to your driver's license and contains the following terms.

**"Transplantation"** means removing an organ from one person (the donor) and surgically placing it in another (the recipient) whose organ has failed.

**"Therapy"** means an individual who has an organ removed, as a component of their treatment for a medical problem, and their removed organ is suitable for transplant into a transplant candidate.

**"Advancement of medical science, research, or education"** means helping students learn surgical procedures, increases understanding of disease treatment options, improves future patient outcomes, etc.

**"Advancement of dental science, research, or education"** means helping students learn surgical procedures, increases understanding of disease treatment options, improves future patient outcomes, etc.

Please let us know if you have questions or concerns prior to your meeting. We are dedicated to ensuring you are informed in your decision-making.

## Exhibit B