

OUR PRACTICE

Trusts and Estates – Planning and Administration

All clients face important issues in the desire to preserve the assets they have accumulated for their families, and to arrange for efficient administration of their estates. Attorneys in the Estate Planning Group are well versed in techniques that aid clients in forming and implementing comprehensive estate plans. While reducing estate tax liability is an important focus of the estate planning process at Baker Donelson, we understand that each client's situation is unique, and that tax motivated decisions must be consistent with the client's personal desires. Taking into account estate and income tax issues, as well as human and family concerns and financial management factors, our goal is to create comprehensive estate plans to address all these issues, while tailoring each plan to the needs of the individual client: from traditional wills and trusts for taxable and nontaxable estates, to more sophisticated planning including the formation and implementation of business succession plans, family entities, charitable trusts, irrevocable insurance trusts and private foundations.

Estate administration is an essential part of the Group's practice. Administration of a decedent's estate offers many opportunities for income and estate tax savings through careful post-mortem planning. Valuation issues are often critical in larger estates, and our attorneys have developed strong working relationships with professionals who value many different types of property. The Group also maintains relationships with accountants who have significant experience in both estate tax and estate income tax matters.

We also counsel clients in matters of probate and trust administration, post-mortem planning, marital agreements (both prenuptial and postnuptial) guardianship and conservatorship actions for minors and incapacitated adults, and the preparation of gift and estate tax returns.

Several of our attorneys are Fellows of the American College of Trust & Estate Counsel (ACTEC), the nationally recognized estate planning organization. Additionally, we speak frequently on estate-related topics to a variety of organizations, teach and train other attorneys, and have published articles in numerous nationally recognized publications. In addition to the attorneys in the Estate Planning/Probate Group, Baker Donelson attorneys throughout the Firm have extensive experience in real property, corporate, partnership, retirement planning, litigation and many other matters. These other members of the Firm are immediately available to assist when the needs of our client or an estate fall within those areas.

The following descriptions are representative of Baker Donelson's work in the Estate Planning/Probate area:

- Development and coordination of estate plans, including:
 - Succession planning for multiple generations in family businesses;
 - Coordination of charitable and family gifts; and
 - Creation of limited liability companies and other entities to protect family ownership, ensure continuity of management and provide an efficient means of making gifts.
- Drafting documents to:
 - Reduce, defer and where possible eliminate federal estate tax liability;
 - Protect family assets threatened by issues such as heirs with dependency, creditor or immaturity problems;

- Provide for beneficiaries with special needs, while protecting their entitlement to government benefits; and
- Arrange for appropriate provisions for children from multiple marriages.
- Probate of wills and assistance to personal representatives (executors) and trustees in carrying out their fiduciary duties related to administration and settlement of estates and trusts
- Representing estates and trusts and their beneficiaries in negotiation and litigation of family conflicts and disputes with third parties
- Coordinating post-mortem planning, including the use of disclaimers to reduce estate tax liability or shift assets within the family without additional tax cost
- Preparing prenuptial and post-nuptial agreements and other intra-family documents that affect clients' estates
- Representing petitioners or other affected parties in connection with guardianship and conservatorship proceedings
- Representing clients before the IRS in income, gift and estate tax audits



Representative Matters

Results may vary depending on your particular facts and legal circumstances.

- Advised a commercial and industrial service company and its sole owner on personal estate planning and business transition planning, including selecting the appropriate entities, creating operating agreements, handling the acquisition of a service company, preparing personal planning documents and consideration of transition plans including an ESOP, potential sale to an outside entity and sales of business interests to family members.
- Prepared a generation skipping trust designed to hold family business interests.
- Assisted individual and corporate executors with the administration of estates.
- Defended the executor of an estate in litigation invalidating an attempted amendment to a trust document upsetting the decedent's testamentary transfer plan.
- Advised an executor concerning the best tax strategy for estate to exit family limited partnership.
- Represented the executrix of an estate in the negotiating, drafting and closing the sale of the estate's interest in a limited liability company to the surviving member.
- Provides clients with estate planning, including wills, trusts, powers of attorneys, health care directives and other planning tools such as creating family-owned entities.
- As part of overall estate planning, prepared a broad range of simple and complex wills and trusts (insurance trusts, revocable/living trusts, gifting trusts, special needs trusts, charitable trusts).
- Probated estates and supervised related tax filings.
- Prepared wills, generation-skipping trusts, GRATs, grantor trusts, insurance trusts and charitable trusts.