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# Estate Planning

A Client's Guide to the Language and Procedure



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## ❖ Welcome

*Thank you for choosing Bakke Norman, S.C. to represent your interests.*

*Your satisfaction is very important to us and forms the basis for our formal quality pledge:*

- ❖ To provide the highest quality legal service to the clients we serve,*
- ❖ To develop and maintain the highest personal and professional standards and reputation, and*
- ❖ To provide a quality professional work opportunity for attorneys and staff.*

*We welcome your feedback at all times.*

*This booklet has been written to acquaint you, in general, with how we handle cases like yours. We hope it will be helpful to you.*

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# Estate Planning Lawyers: Who are they? What do they do? How much will they charge?

**B**akke Norman, S.C. has experienced attorneys with expertise in estate planning matters. Your attorney is supported by a skilled legal assistant to ensure that you receive the best professional service and help. In addition to a skilled and experienced staff, we utilize a complete professional research library, computerized research facilities and the latest in computer technology and word processing equipment to help efficiently process your work.

You are encouraged to contact your attorney or their legal assistant regarding your file. Although our trained legal assistants can assist you with many of your questions, they are not lawyers and consequently are not permitted to give legal advice. The legal assistants will refer questions requiring legal advice to your attorney.

## ❖ What Do Estate Planning Lawyers Do?

Your lawyer will advise you about the law, assist you in determining how the law applies to your estate and prepare the documents necessary for your estate plan. Depending on the size and complexity of your estate, other experts may be needed in developing your estate plan. For example, accountants, appraisers and other attorneys on our staff may be consulted regarding complex business, tax or appraisal issues.

Our attorneys and staff are committed to working with you in preserving your assets and in designing an estate plan that meets your objectives.

## ❖ Whom Do We Represent?

Generally, the attorney represents both spouses. The law gives spouses certain rights as well as certain obligations. In some cases, the rights of each spouse may conflict. For example, in a second marriage situation there may be a conflict between the interests of a husband and wife and treatment of their children from a prior marriage. When potential conflict issues arise, we will work with you in dealing with these issues and explain to you any problems or concerns that we identify.

## ❖ What Does It Cost?

Estate planning clients of Bakke Norman, S.C. are charged for legal services on the basis of time spent on your file, as well as the experience and expertise needed to handle your estate plan. If after your initial consultation you decide not to retain Bakke Norman, S.C., you will not be charged for your initial consultation. The cost of your estate plan can be determined after your attorney has reviewed your estate planning objectives, the applicable law and the character of the assets in your estate. The total cost depends on such issues as: the estate

size and complexity, the number of heirs and beneficiaries, the number and types of assets, family business or personal business holdings, income tax or estate tax matters, and if there is a need to employ expert consultants. Simpler plans are often completed based on a fixed fee. More complex plans may involve a combination of fixed and hourly fee charges. The savings achieved through estate and tax planning will more than offset the costs incurred in completing your estate plan.

It is essential that you have an understanding regarding the fees and costs you will incur as part of your estate plan. If at any time or for any reason, you do not have a complete understanding regarding the fees to be paid, please discuss this with your lawyer.

## ❖ How Long Does It Take?

Basic estate plans can generally be completed within two weeks while more complex plans may require several weeks to complete. The process typically requires one or more meetings with your attorney, followed by preparation of drafts of the estate planning documents. These documents are then reviewed with the client. The documents are placed in final form and a conference is scheduled for signing all the plan documents.

## ❖ Your Involvement

Your involvement is critical at each stage of the estate planning process, from the initial fact gathering to the final implementation of the estate plan. It is important that you

provide your attorney with complete personal asset and liability information to ensure the proper selection of estate planning documents and to achieve an effective estate plan. Your attorney and other advisors or experts will assist you but it is your estate plan; your decisions, with the help of your advisors, will determine the ultimate success of the estate plan.

## ❖ Telephone Calls and E-mail

The telephone and computer are important tools for ongoing communications between attorney and client. We welcome your calls and e-mail messages with questions about your file or with new information. When an attorney is in court or meeting with another client, your call may be referred to the legal assistant assisting with your file. We make every effort to respond to your inquiries in a prompt manner.

## ❖ Facts About Estate Planning

The purpose of estate planning is to accomplish the following:

- inventory and value all of your property;
- determine how you wish your property to be distributed at your death;
- analyze the effect of tax provisions on your property transfers;
- investigate ways to minimize or defer the effect of taxation at your death or at the death of your spouse;

- present to you a detailed step-by-step plan of action to accomplish your goals;
- identify ways to limit costs and preserve estate assets.

## ❖ Estate Planning and Your Property

One of the primary purposes for estate planning is to allow you to direct the manner in which your property is distributed to your heirs or others. In the absence of estate planning documents, the law will dictate how your property will be distributed. This uncertainty may result in a distribution that does not follow your wishes.

The Wisconsin Marital Property Act is unique to Wisconsin and your attorney will discuss with you the important impact that it can have on your estate plan.

Another purpose for planning is to ensure that you are able to maximize the tax savings available to you and your estate.

You also have the opportunity to place controls or limitations on the use of your property after your death. If you have minor children or grandchildren, or if an heir suffers from some disability, you can structure your plan to protect their interest, as well as to designate and ensure their proper care.

Your estate plan will name the person or entities to be in charge of your estate at the time of your death. If you have minor children, you are able to designate guardians and trustees to protect and manage their property.

## ❖ Estate Planning and Business Succession Planning

Personal or family businesses often create challenging issues when parents look for ways to pass on or transfer the family business to the next generation. Because of the ownership and tax issues involved, it is important to consult with an attorney and other professionals in this process to ensure that your goals and desires are achieved. Family limited partnerships, stock transfers, buy-sell agreements and retirement planning are some of the components that are often integral in business succession planning. Our attorneys can assist in helping you identify the important issues to consider and what estate planning vehicles may be effective in meeting your objectives.

## ❖ Estate Planning and Probate

If one of your objectives is to avoid probate, your estate plan can, in most cases, accomplish this. If probate is necessary, your estate planning documents may include provisions to expedite and simplify the process.

Much has been written concerning the probate process but not all of it is accurate. There are costs and benefits in the probate process. In Wisconsin, much of the cost traditionally associated with probate has been reduced by the use of the informal probate process. There are also costs and benefits associated with avoiding the probate process. Bakke Norman, S.C.

promises that during your estate planning process we will discuss various pros and cons related to the methods used for transferring your assets to your spouse and heirs. These are important decisions and should not be made without the advice of your attorney.

## ❖ Estate Planning and Taxes

Avoiding, minimizing or deferring taxes is an important part of your estate plan. Tax laws frequently change. At Bakke Norman, S.C., we continuously monitor and research law changes on our clients' behalf.

The state of Wisconsin imposes an estate tax through 2007. Whether Wisconsin's estate tax will continue after that date has not been decided. The federal government, through the Internal Revenue Service, also imposes taxes on your estate. A federal estate tax credit is available for all estates. The amount of this credit will increase over the next several years. Careful planning will enable you to fully utilize the estate tax credit. In addition, spouses can transfer an unlimited amount of assets to each other free of any estate tax.

Income taxes are important considerations for the estate plan. For many individuals retirement plans are their largest asset. Proper planning will enable you to maximize the deferral of taxes on amounts in the plan allowing such amounts to continue to grow tax-free.

You and your attorney will consider all of these tax issues and their impact. The documents prepared by your attorney

will be designed to address these issues, while making certain that your distribution wishes are accomplished.

## ❖ Estate Planning and Trusts

Trusts come in many shapes and forms. There are two general trust categories: those contained in wills and those that are created outside a will. Trusts enable individuals to accomplish many different goals. Trusts are frequently used for charitable purposes, or to protect the interests of minor or disabled heirs, or to take advantage of certain tax law provisions, as well as for other purposes to meet your distribution goals. If after discussion with your attorney it appears that a trust can or should be a part of your estate plan, your attorney will explain its requirements and operation.

Revocable living trusts have become popular and effective estate planning vehicles. You may have read articles or attended seminars discussing these trusts. These trusts may enable you to avoid probate or the need for court-appointed guardians. Your attorney will explain trusts and will make a recommendation to you about their value in your estate plan.

## ❖ Estate Planning Documents

After you and your attorney have gathered all of the financial information, fully discussed your wishes for the distribution of your property, addressed the tax effects and considered any special desires or require-

ments, the plan documents will then be prepared for you. Not all of the following documents will be used in every estate plan but the list is representative of the kinds of documents that may be necessary:

- Will
- Codicil
- Marital Property Agreement
- Power of Attorney for Health Care
- Durable Power of Attorney for Finances and Property
- Durable Power of Attorney for Release of Medical Information
- Personal Property Distribution List
- Revocable “Living” Trust
- Testamentary Trusts
  - Credit Shelter (Bypass) Trust
  - Marital Deduction Trust
  - Power of Appointment Trust
  - Qualified Terminable Interest Property (QTIP) Trust
- Irrevocable Trusts
  - Supplemental (Special) Needs Trust
  - Life Insurance Trust
  - Education Trust
  - Charitable Trust
  - Grantor Retained Income Trust (GRIT)
  - Grantor Retained Annuity Trust (GRAT)
  - Grantor Retained Unitrust (GRUT)
  - Qualified Personal Residence Trust (QPRT)
- Family Limited Partnership/Family Limited Liability Company
- Buy-sell Agreement
- Beneficiary Forms (insurance policies and retirement accounts)
- In some cases, contracts, employment agreements, and other related documents which will protect your interests and your estate plan.

If you need additional information or wish to schedule an appointment with one of our estate planning attorneys please contact us.

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## ❖ Notes

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