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ESTATE PLANNING ALERT

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LIFE INSURANCE TRUSTS: NOW MORE THAN EVER

Traditionally, life insurance trusts were only appropriate if your net worth was in excess of a few million dollars. Due to recent changes in the estate tax laws, however, insurance trusts are now essential to nearly every estate plan. Consider the following:

If you die while you own any life insurance policies (or have control over any such policies), the value of the death benefit is included in your gross estate for estate tax purposes.

This means that if you have \$2 million of assets (excluding life insurance) and \$2 million of insurance on your life that passes to anyone other than a spouse (if he or she predeceases you or is not otherwise the beneficiary of the insurance), under the present estate tax regime, your estate will owe around \$1 million in federal and state estate taxes—completely unnecessarily.

Even if you have no assets other than a \$1 million life insurance policy that passes to anyone other than a spouse (if he or she predeceases you or is not otherwise the beneficiary of the insurance), that \$1 million

of life insurance will generate \$38,800 in New York or New Jersey estate taxes—again, completely unnecessarily.

One option for removing the insurance proceeds from your estate, thereby enabling 100% of the proceeds to pass estate tax free to the beneficiaries of the policy, is to form an irrevocable life insurance trust for the benefit of your spouse and children (or other desired beneficiaries) and to purchase policies of life insurance through such a trust.

When insurance trusts are structured properly, the proceeds are not taxed on your death or your spouse's death. Another benefit of the insurance trust is that, if you wish, the proceeds can be held in trust for your children's (or other desired beneficiaries') benefit after you and your spouse are gone, thereby safeguarding the proceeds from creditors, future spouses and even from immature beneficiaries themselves.

If you already own life insurance policies, the policies can be transferred to such an

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insurance trust (the only caveat is that you have to survive three years in order for the insurance proceeds to be excluded from your estate).

Of course, when proceeds are payable to your spouse no federal or state estate tax is due anyway so long as the spouse is a United States citizen (due to the marital deduction). However, the amount of the proceeds not expended during the surviving spouse's lifetime will be includible in his or her estate.

And, if your spouse predeceases you (or if you die together), and the insurance ends up passing to children or other beneficiaries, both state and federal estate tax may be owed on the value of the proceeds if you own the policy at the time of your death.

Further, in the case of untimely deaths, failure to place insurance policies in an

insurance trust could lead to children receiving large amounts of money at too young an age. In addition, this failure to place the assets in an insurance trust also makes the insurance proceeds subject to your children's creditors and predators.

* * *

The foregoing discussion is oversimplified in order to make the concept more comprehensible. This estate planning alert is meant simply as an introduction to one of the estate planning techniques that are available to you.

Each individual's situation is different, therefore the information herein should not be relied upon without consulting an attorney. In future alerts, I will discuss other estate planning techniques that may be appropriate for you.

FOR MORE INFORMATION on this Alert or other estate planning issues, please contact:

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