Estate Planning Matters

Kramer Radin, LLP

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Announcing Our New Partner

We are pleased to announce that Jerome Galli is now a partner with the Firm.

Jerome, who has lived his entire life in the Los Altos area, has more than 10 years litigation experience. He has been with the Firm since June 2006 working with clients to successfully settle disputes concerning probate and trust administration, conservatorships, elder abuse, real property, and employment matters.

He has proven himself to be a staunch client advocate. You can be sure he will always consider your best interests whenever he represents you, whether in a conference room or in court.

If you have a dispute and need legal assistance, please call.

FDIC – Are My Deposits Covered?

The Federal Deposit Insurance Corporation (FDIC) is an independent agency of the United States government. It protects depositors against the loss of their insured deposits if an FDIC-insured bank or savings association fails.

The FDIC has adopted an interim regulation for insuring accounts. Effective October 3, 2008 through December 31, 2009 the limit has been increased from $100,000 to $250,000 per depositor for interest bearing accounts and there is unlimited coverage on non-interest bearing deposit transaction accounts. However, unless the interim regulation is permanently adopted, the coverage will return to at least $100,000 per depositor on January 1, 2010.

The coverage for depositors of Revocable Trust accounts includes all beneficiaries of a Revocable Trust. So, if Mom and Dad named their two children beneficiaries in the revocable family trust, the FDIC coverage would be $1 million (4 X $250,000) for each of their Revocable Trust accounts per institution — at least until December 31, 2009.

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Attorney's at Law

The legal services of Kramer Radin include estate planning, trusts, probate and trust administration, related tax matters, real estate, employment law, Medi-Cal planning, litigations and dispute resolution.

Linda C. Kramer*
Deborah G. Kramer Radin
Jerome Galli

*Certified Specialist, Estate Planning, Probate and Trust Law, State Bar of California Board of Legal Specializations

FDIC (continued)

A very informative Web site is http://www.fdic.gov/deposit/index.html at which the rules are explained and examples are given. There is also an FDIC insurance calculator that can help guide your financial planning to ensure maximum coverage.

For case specific information regarding insurance coverage you may call 1-877-ASKFDIC.

Estate Tax Reform Update

Estate tax reform will be an active issue over the next year or more. The current law allows for a $2 million exemption this year, a $3.5 million exemption for 2009 with a maximum tax rate of 45% and no estate taxes in 2010. However, the law also reinstates the tax in 2011 with a $1 million exemption and a 55% maximum rate.

Even after the exemption and top tax rate issues are settled, there are other issues to be settled including reinstating the (1) state estate tax credit and (2) unified gift and estate tax exemption. The state estate tax credit would provide much needed funding to state government and the unified exemption would allow larger lifetime gifts to be made free of gift taxes.

Currently, when someone dies, the assets are valued as of the date of death and this becomes the cost basis for beneficiaries of the estate. However, the 2001 Tax RELIEF Act includes a change to the way inherited property will be valued beginning in 2010. Under the new rules the decedent's cost basis will be the cost basis for the heirs. For example, Guinevere Smith bought her home in 1972 for $30,000. When Guinevere died in 2008 the value of her home had increased to $900,000. This became the new cost basis. Her estate sold the home shortly after her death for $900,000 and had no capital gain tax to pay. The heirs received their proportionate share of the $900,000.

The rules that will become effective in 2010 will keep the cost basis at the original amount ($30,000 in this case) which would subject the sale of the property to federal and state capital gain tax on $870,000, which is currently between 15% and 25%. The heirs will receive their proportionate share of the net proceeds which, obviously, will be less than they would receive prior to 2010.

Hopefully, lawmakers will keep the current rules allowing the tax basis for inherited assets to be their value on the date the owner dies. Moving to original cost basis would create a nightmare for future estate and tax planning.

Exercise May Slow Alzheimer's

Researchers from the University of Kansas School of Medicine led by Dr. Jeffrey Burns studied 121 people over age 60 with about half of them in the early stages of Alzheimer's disease. They found that those who were less fit had four times more signs of brain shrinkage than those who were fit .

Further, after determining there was no relationship between brain size and exercise in those who did not have Alzheimer's, the four-fold difference in those who did suggests evidence that exercise might help.

Dr. Burns said, "People with early Alzheimer's disease may be able to preserve their brain function for a longer period of time by exercising regularly and potentially reducing the amount of brain volume lost."

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"An optimist is a person who starts a new diet on Thanksgiving Day."
-- Irv Kupcinet

Alzheimer's (continued)

"Evidence shows decreasing brain volume is tied to poorer cognitive performance, so preserving more brain volume may translate into better cognitive performance."

The Alzheimer's Research Trust said other research showed exercise reduced the risk of dementia. Because exercise increases blood flow to the brain, brain cells receive more oxygen and nutrients. This may be why dementia progresses more slowly in people who are physically fit.

The moral: your doctor is right. Exercise and good nutrition are essential for a longer, better quality of life. Discuss this study with your doctor and then get out your walking shoes!

Reverse Mortgage—Boon or Disaster?

Reverse mortgage advertising is everywhere — on TV and radio as well as in newspapers, magazines, and your mailbox. David Certner, a legislative police director for the AARP, notes that reverse mortgages should be something of a last resort partly because of the associated high fees and the many adverse risks associated with these loans including the requirement that the loan comes due if you are not residing in your home for any reason Depending on the individual situation, those in need of additional monthly income may be better suited to alternatives such as other types of loans or selling the home.

A reverse mortgage means the home will probably be sold at the end of the loan. If a senior wants to leave the family property to heirs, a reverse mortgage will require the reverse mortgage to be paid off. Depending on the circumstances, this could be difficult to accomplish and defeat the senior's intentions.

If someone does want a reverse mortgage, it is very important to deal with a reputable organization because there are unscrupulous marketers offering reverse mortgages. Many of them use high pressure tactics and prey on the senior's fears even if a reverse mortgage is absolutely inappropriate for the individual. Marketers minimize the risks and often have the senior use the proceeds of the reverse mortgage to fund another investment, such as an annuity, which may or may not be in the best interest of the senior.

Earlier this year the Financial Industry Regulatory Authority issued a warning that fees and costs can be up to 4—8 percent of the loan amount. The FBI has seen an increase in reverse mortgage cases as part of its mortgage fraud inquiries.

Before signing on the dotted line, it is necessary to consider all options, do in-depth homework and conclude that this is the best action to take.

We wish you and your family
a Happy Thanksgiving and
Holiday Season.

Deborah Linda Jerome
Sylvia
Marc Isabel Brenda
Nadine Corina Monica
Kristy Jean

Kramer Radin, LLP
280 Second Street, Suite 100
Los Altos, CA 94022

PRST STD
U.S. POSTAGE
PAID
PERMIT #28
LOS ALTOS, CA