The Purpose of this Book

Estate planning is a scary proposition to many people. It certainly is important that your estate plan be properly drafted so that your wishes will be carried out at death and your loved ones are protected. This book is not a how-to or do-it- yourself book. It takes years of training, experience and expertise to learn how to draft an estate plan properly. This is something you should not try to do without professional help. On the other hand, this book will help familiarize you with some of the basic concepts involved in estate planning so you can better work with your attorney in drafting an estate plan that meets your needs and that of your heirs.



Michael P. Burke

Michael P. Burke earned a B.A. in Business Administration from Mesa State College, an M.B.A. in Business Administration, and a Juris Doctorate at the University of Denver in 1993. He specializes in Estate Planning, Probate, and Business Law. He has completed a number of American Bar Association Estate Planning courses, and teaches numerous seminars on estate planning.



Stephanie R. Holguin

Stephanie R. Holguin earned her Juris Doctorate with honors from the University of Wyoming College of Law in May 2012. Stephanie is bilingual, and practices in the areas of business law, estate planning, family law, probate, juvenile law, civil litigation, and real estate law. She was selected as the 2011-2012 Domestic Violence Clinic Outstanding Student and the Clarence A. Brimmer Scholar in 2011. Stephanie was a research assistant for a law school professor, focusing her research on franchiser liability and agency law.



Andrew Smith

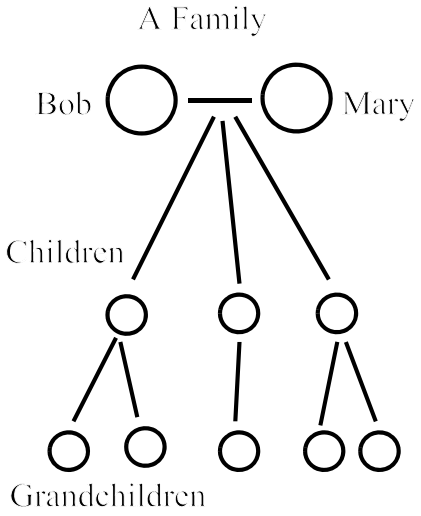
Andrew Smith graduated with a Business Management degree from the Marriott School of Management at Brigham Young University in 2004. During law school Andrew earned the CALI Award for Taxation of Property Transfers. He received his Juris Doctorate from the University of South Carolina School of Law in 2010. Andrew works in the areas of business law, estate planning, criminal law, family law, civil litigation, and real estate law.

 Copyright 5-21-07 William H. Kain ©

The Purposes of Estate Planning

- Planning for incapacity.
- Appointing fiduciaries.
- Setting up a Will or Trust.
- Providing for efficient and inexpensive settling of your estate after death.
- Setting out who will receive your property after death and how your debts and expenses will be paid.

Estate planning is the process by which an attorney assists a client in deciding what the client's estate planning goals are, and what the most effective method of carrying out those goals would be. A qualified estate planning specialist will consider the use of numerous estate planning techniques such as a Last Will and Testament, Living Trust, Joint Tenancy Property, Powers of Attorney, and Living Wills. It is important that the entire plan be coordinated.



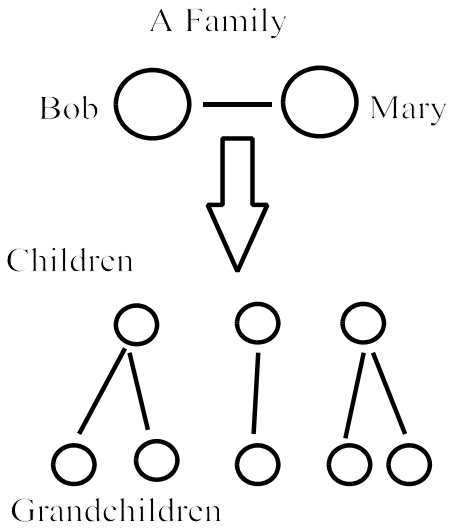
Notes:

 Copyright 5-21-07 William H. Kain©

Estate Planning Goals

- Making sure that your heirs receive their property at your death.
- Avoiding taxes.
- Avoiding the delays of Probate.
- Avoiding the expense of Probate.
- Obtaining the privacy of a Trust.
- Transferring out-of-state property.

Part of the process of estate planning is deciding what your particular goals are. Perhaps you are most interested in avoiding Probate. Perhaps you would like to see your loved ones receive your property with the least possible expense and hassle. Perhaps you want the privacy of a Trust, or the asset management that a bank trustee can provide for your children and grandchildren. Whatever your goals, it is important that they be clearly in mind and carried out by the attorney.



Notes:

 Copyright 5-21-07 William H. Kain©

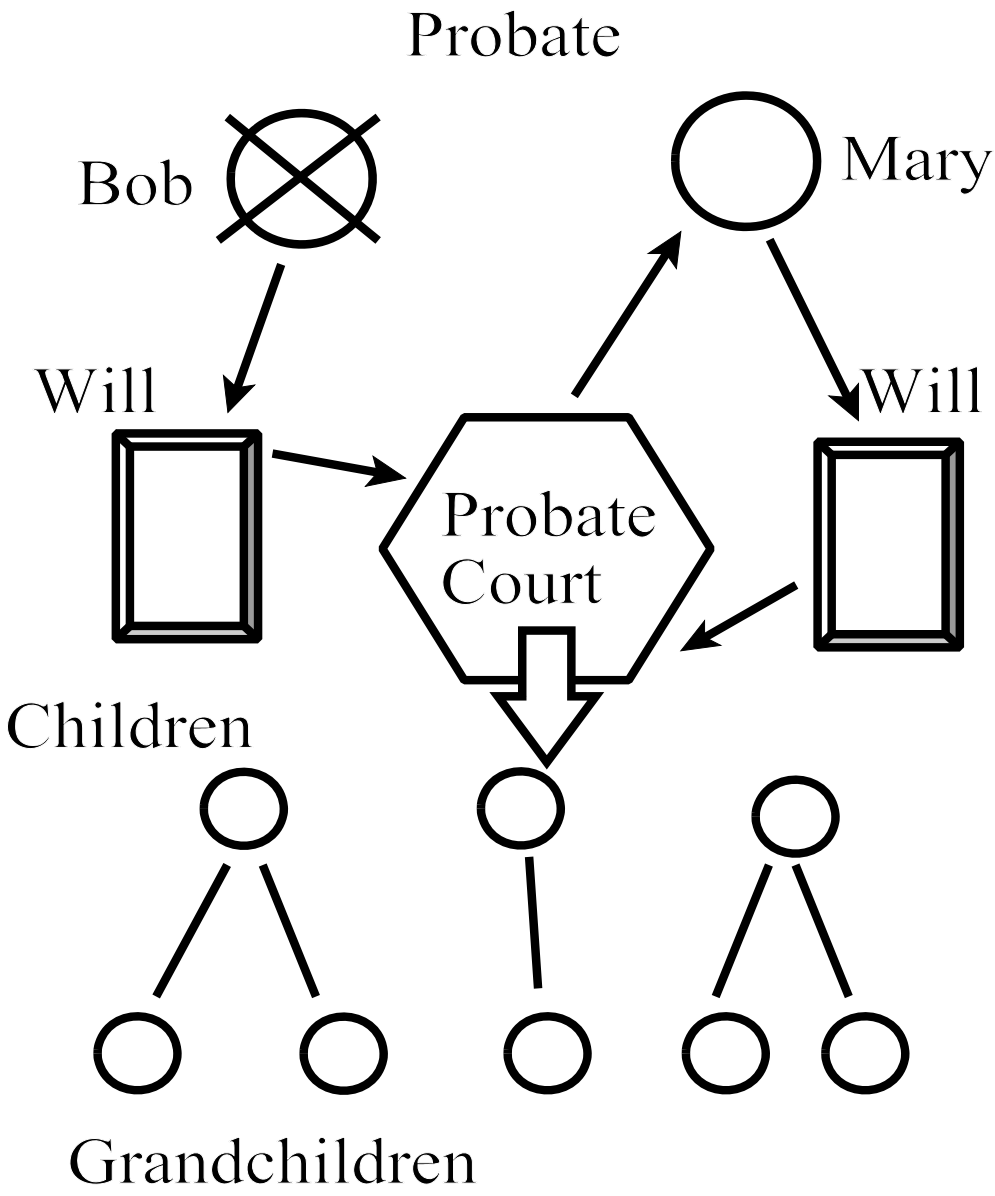
How Probate Works

1. Lodging the Will.
2. Appointing the Personal Representative.
3. Issuing Letters Testamentary.
4. Marshaling the assets.
5. Paying debts and administrative expenses.
6. Transferring assets to the heirs.
7. Selling assets and distributing the net proceeds of the estate.
8. The estate Inventory and Accounting.
9. Publishing the Notice to Creditors.
10. Closing the estate.

Probate is the process by which a ***Last Will and Testament*** is lodged with the ***Probate Court*** so that the provisions of the Will can take effect. After the Will is lodged with the Court, the Court will issue a document known as the "***Letters Testamentary.***" This document allows the ***Personal Representative***, also known as the ***Executor***, to transfer assets to the heirs. Normally an estate bank account is opened, and as each asset is liquidated, the proceeds are placed into the estate bank account. The debts and expenses of the estate are paid from that account, and after all of the assets have been liquidated and all of the debts and expenses paid, the balance remaining in the account is distributed to the heirs according to the Will. There are statutory requirements for an ***Accounting*** and an ***Inventory***. In addition, a ***Notice to Creditors*** is run in the paper for three weeks, giving creditors four months to come forward or be forever foreclosed from asserting their claims. By law, a Probate may not be closed in less than six months.

Notes:

 Copyright 5-21-07 William H. Kain©



Notes:

 Copyright 5-21-07 William H. Kain©

Assets Subject to Probate

- Those titled in the decedent's name.
- Those held in tenancy in common.

Assets Not Subject to Probate.

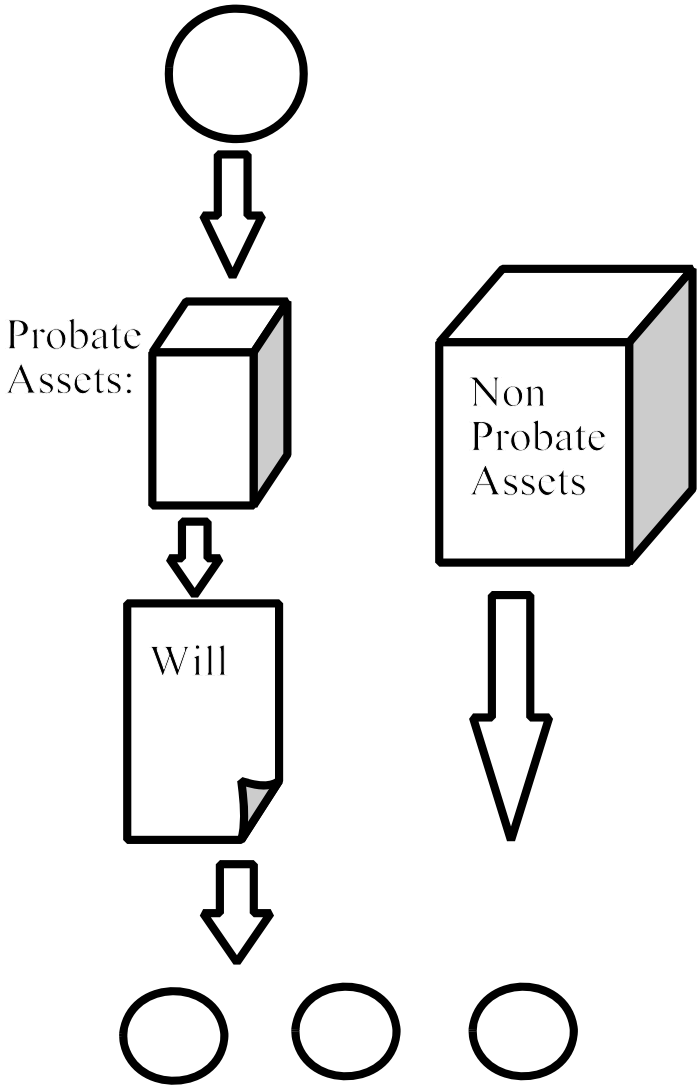
- Joint tenancy.
- Payable on death accounts.
- Transferred on death accounts.
- Life insurance.
- Living trust.
- Retirement plans.
- Life estates.

Normally the assets subject to Probate include the assets titled in the decedent's name. This can include a decedent's share of property owned as tenants in common.

Assets that are held in joint tenancy, payable on death accounts, transferred on death accounts, life insurance, property owned by a living trust, annuity proceeds, retirement plans with named beneficiary, and real estate in which a decedent owns a life estate, are not subject to Probate. This means that they pass to the heirs outside the Will without going through the Probate Court.

Notes:

 Copyright 5-21-07 William H. Kain©



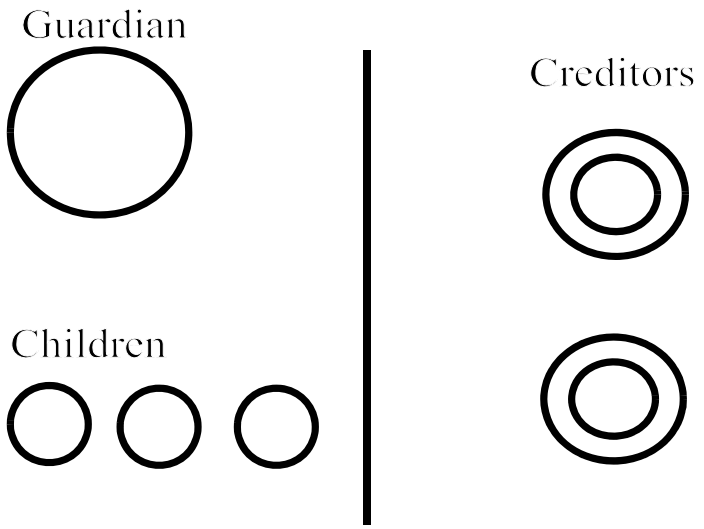
Notes:

 Copyright 5-21-07 William H. Kain©

Advantages of Probate

- Cutting off creditors' claims.
- Appointment of a Guardian for minor children.
- Drafting a Will is relatively inexpensive.

Probate does have certain advantages. For one thing, Probate allows for a notice in the newspaper to run for three weeks giving all creditors four months to come forward. Any creditors who fail to file a claim with the Probate Court or with the Personal Representative within four months may forever lose their claims. This has the advantage of allowing the Personal Representative to make distribution to the heirs without fear that further creditors may later come forward and sue the heirs or the estate. The Probate process can be expensive, but an advantage of writing a Will is that the Will can be drafted fairly inexpensively compared to the cost of setting up a Trust. Also, a Will is the easiest way to appoint a Guardian for minor children.



Notes:

 Copyright 5-21-07 William H. Kain©

Disadvantages of Probate

- Expensive.
- Time-consuming.
- Ancillary Probate is needed for property in other states.
- Lack of privacy.

Probate can be very expensive. It is also time-consuming and frustrating for many people. The law does not allow a Probate Estate to close in less than six months, and often it takes longer than six months to make sure that all assets have been transferred and bills paid. Further, Probate does not have the advantages of privacy that a Trust has. Even with Colorado's relatively simplified Probate System, the Probate process generally takes much longer and costs much more to administer than does a Trust.

Notes:

 Copyright 5-21-07 William H. Kain©

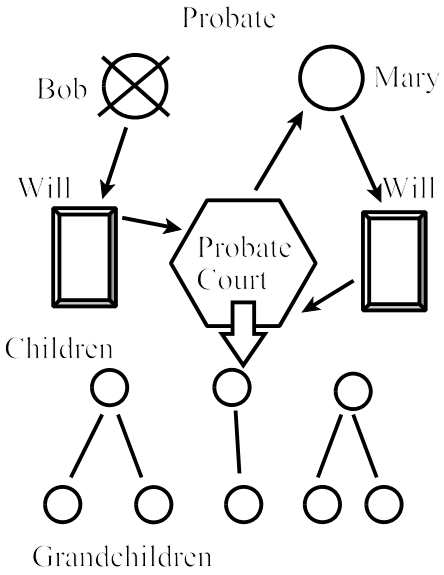
Advantages of a Living Trust

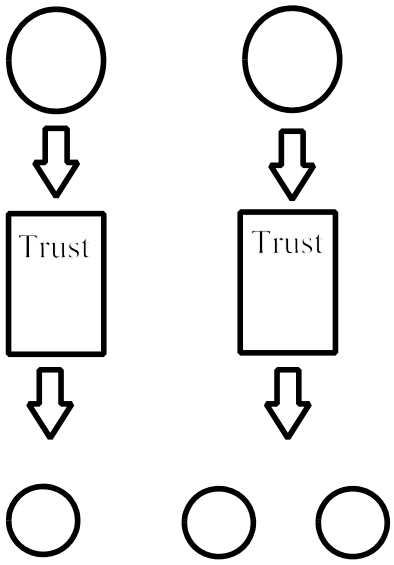
- ♦ Avoids the frustrations of Probate.
- ♦ Avoids the time and expense of Probate.
- ♦ Privacy.
- ♦ Avoids ancillary Probate for out-of-state real estate.
- ♦ Avoids a conservatorship or a guardianship if disabled.
- ♦ Much less expensive than Probate.

A ***Living Trust*** can avoid Probate completely if all assets have been transferred to the Living Trust during your life. It may be somewhat more expensive to set up a Trust than to set up a simple Will. But overall, with the tremendous savings in Probate costs, your children or other heirs will receive far more of your estate with a Living Trust than with a Probate of a Will. Further, a Living Trust can provide privacy since there is no requirement that the Trust be lodged with the Court. Normally, only a one-page ***Trust Registration Statement*** is lodged with the Probate Court after death, which means that the dispositional provisions of the Trust are kept private. Another advantage of a Living Trust is that out-of-state real estate can be transferred with a Living Trust without the necessity of opening an ***Ancillary Estate*** where the vacation home is located.

Notes:

 Copyright 5-21-07 William H. Kain©





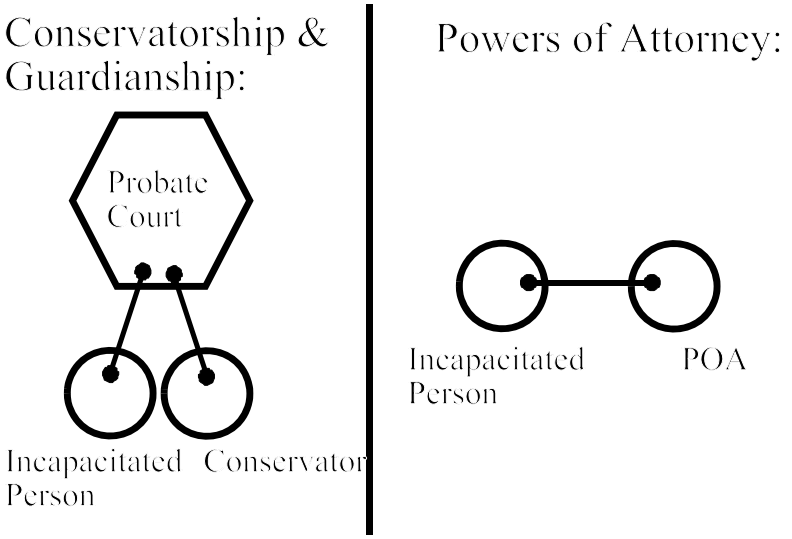
Notes:

 Copyright 5-21-07 William H. Kain©

Conservatorships and Guardianships

- Incapacitated persons.
- Appointed by Court.

For those of us lucky enough to live a long life, we may in our later years face ill health, incapacity or incompetency. If we do, who will pay our bills and manage our financial affairs? ***Conservatorships*** and ***Guardianships*** are provided by the law to appoint a Conservator and a Guardian to manage the affairs of an ***Incapacitated Person***. However, these can be very expensive, and someone may be appointed that you would not be happy with. For this reason, the use of Powers of Attorney and Living Trusts can give you the opportunity to name the persons you trust to manage your affairs in the event of incapacity, and to avoid the Court process of appointing a Conservator or Guardian. Setting up a Living Trust along with Powers of Attorney is relatively inexpensive compared to the large cost of a Conservatorship or Guardianship in Court.



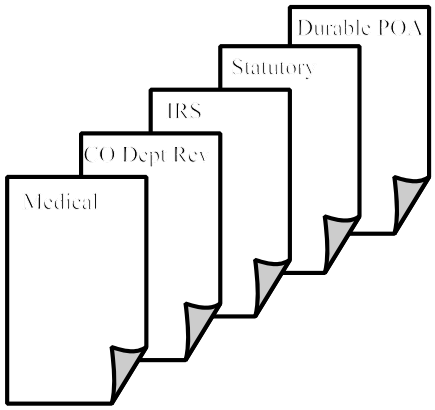
Notes:

 Copyright 5-21-07 William H. Kain©

Powers of Attorney

- Durable Power of Attorney.
- Statutory Power of Attorney.
- IRS Power of Attorney.
- Colorado Department of Revenue POA.
- Limited and Special Powers of Attorney.
- Springing Powers and Immediate Powers.

A properly drafted ***Power of Attorney*** can protect you from the need for an expensive Conservatorship or Guardianship if you are ever incapacitated or incompetent in later years. They also are very useful if you are ever out of the country or out-of-town during a real estate closing or due to illness or surgery are unable to pay your bills. There are several types of Powers of Attorney to be considered. There is the ***Durable Power of Attorney***, the ***Statutory Power of Attorney***, the ***Special Power of Attorney***, the ***IRS Power of Attorney***, and the ***Limited Power of Attorney***. There is also the ***Springing Power of Attorney*** versus the ***Immediate Power of Attorney***. Each of these should be considered and discussed with the attorney drafting the estate plan. The purpose of a Power of Attorney is to name the person or persons you trust to manage your finances.



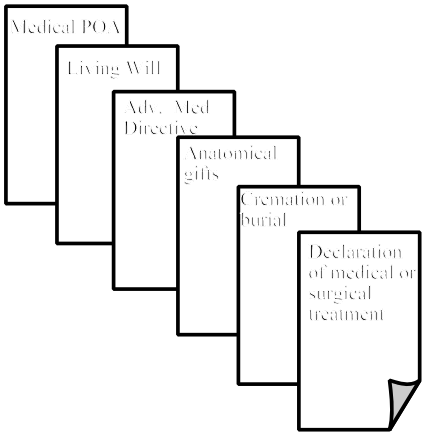
Notes:

 Copyright 5-21-07 William H. Kain©

Medical Powers of Attorney

- Naming a person to make medical decisions.
- Anatomical gifts.
- Living Will.
- Advance Directive for Medical/Surgical Treatment.

If you are ill or incapacitated at some time in your life in the future, you will hopefully have already signed a number of medical documents to set out your wishes in advance. The ***Medical Power of Attorney*** will name a person or persons that you trust to make medical decisions for you, if you are incapable of making those decisions yourself. It will also state whether you wish to make anatomical gifts in the event of death. A ***Living Will*** and an ***Advance Directive for Medical/Surgical Treatment*** can set out your wishes in case you ever reach the point where it is no longer feasible to continue life. The law currently allows you to sign a Living Will stating that if you are ever in a coma for seven consecutive days, and two physicians certify in writing that it is an irreversible condition, and if your family consents, then you release the physicians and your family from any civil or criminal liability if artificial life support is terminated. Advanced Medical Directives, Living Wills, and Medical Powers of Attorney are extremely important parts of any estate plan.



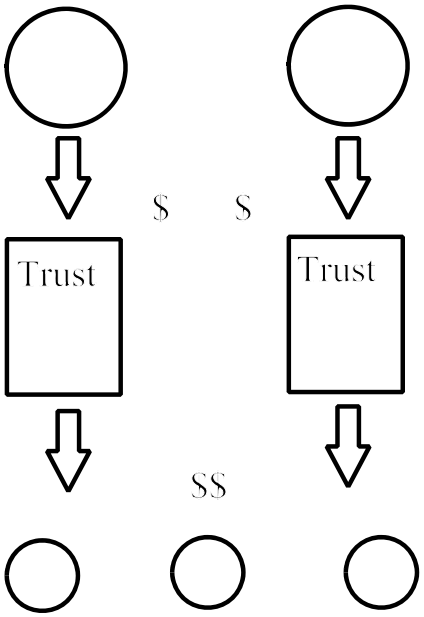
Notes:

 Copyright 5-21-07 William H. Kain©

Estate taxes

- $13,990,000 million applicable credit amount per person.
- $19,000 per year gift exclusion.
- The use of a Bypass Trust.

If your estate will definitely be less than the federal credit at the time that both you and your spouse pass away, then there should be no estate taxes under current law. However, if your gross estate for tax purposes, taking into account life insurance and appreciation in value of all of your assets, could possibly exceed the federal credit when both you and your spouse have passed away, then it is certainly important to discuss with the attorney the use of a Bypass Trust to avoid taxes.



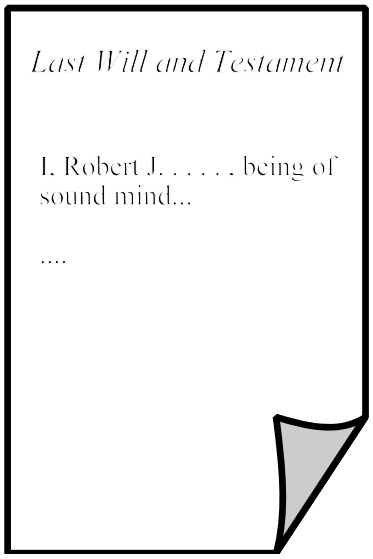
Provisions that should be in a Will

Notes:

 Copyright 5-21-07 William H. Kain©

- ♦ Two Witnesses and a Notary.
- ♦ Self Authenticating Clause.
- ♦ Appointment of Guardian for Minor.
- ♦ Testamentary Trust for Minors.
- ♦ Identify Family.
- ♦ Disinheriting Heirs.
- ♦ Taxes, Debts and Expenses.
- ♦ Specific Bequests.
- ♦ Residuary Clause.

There are many provisions that should be in a Will. Certainly a Will should be witnessed by two witnesses and notarized. There should be a Self Authenticating Clause. If you have minor children, there should be an appointment of a Guardian for your children to raise and care for them. There should be a Testamentary Trust to manage your children's money until they reach majority. If you have Specific Bequests, those should be set out in detail. Your family members should be listed with full legal names, including any spouse and children. If a child or others are being disinherited, that should be set out clearly so that there is no confusion or misunderstanding after death. The Will should deal with issues such as taxes, debts, and expenses of administration, and there should be a Residuary Clause that deals with who will receive the balance of the estate. If any heir predeceases you, the Will should be clear as to who will receive the deceased heir's share.



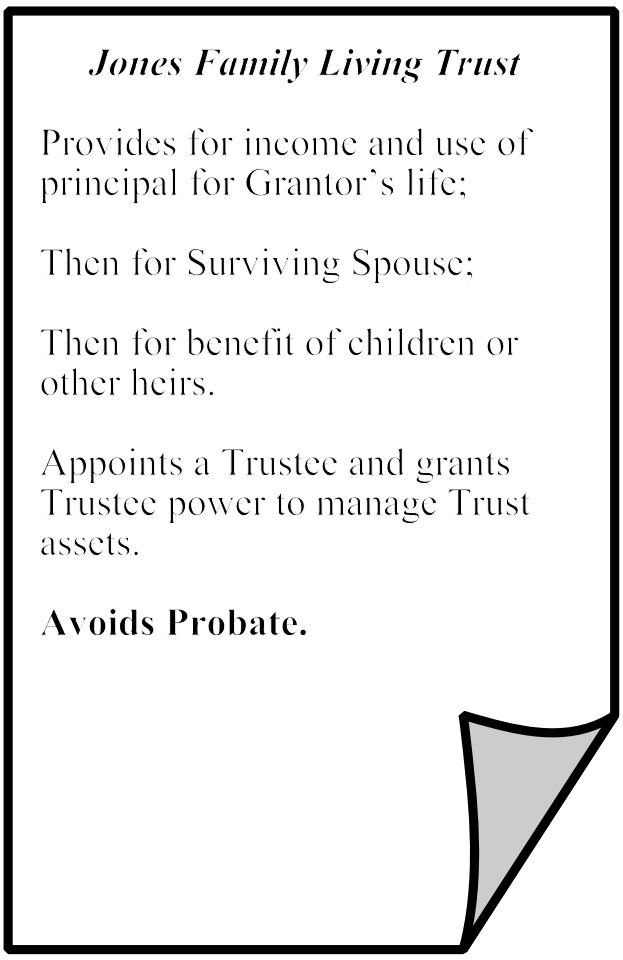
Notes:

 Copyright 5-21-07 William H. Kain©

Avoiding Probate

- Probate can be expensive.
- Time-consuming.
- Frustrating.
- Can be avoided with a Living Trust.

Because Probate is time-consuming and expensive, many people elect to avoid Probate by using a Living Trust. Although Colorado has a simplified Probate system which makes Probate less expensive than in some other states, Probate is still a process which takes by law at least six months, and it can cost many thousands of dollars to administer a medium-sized estate. Probate can be avoided with the use of a Living Trust, which also gives your estate privacy and the peace of mind of knowing that your estate is going to the persons who you wish to receive it.



Notes:

 Copyright 5-21-07 William H. Kain©

A Living Trust Versus a Will

- The difference between a **Living Trust** and a **Testamentary Trust**.
- The difference between a **Living Trust** and a **Will**.
- A Trust **avoids Probate**.
- Trusts can pass **out-of-state property** without an **Ancillary Probate**.
- A Trust **avoids** a **Conservatorship**.

A ***Living Trust*** is a document which sets out who you would like to manage your finances if you are incapacitated and what you would like to have happen to your estate after your death. Unlike a Last Will and Testament, a Trust is not Probated and is thus not subject to the delays and expense of the Probate Court process. A Trust is more private than a Last Will and Testament since a Trust is not filed with the Probate Court. Further, a Living Trust can pass out-of-state property without the expense of an Ancillary Probate in another state. A Living Trust is also very useful if you someday become incapacitated, since your trustee can step forward at any time to manage your affairs with a Living Trust. There usually will be no need for a Conservatorship or Guardianship.

Notes:

 Copyright 5-21-07 William H. Kain©

The Cost of Probate

A typical Probate of a small to medium-sized estate can easily cost from **$2,000 to $10,000 or more**. For a married couple, the process has to be gone through twice, thus doubling the expenses.

The cost of setting up a living trust.

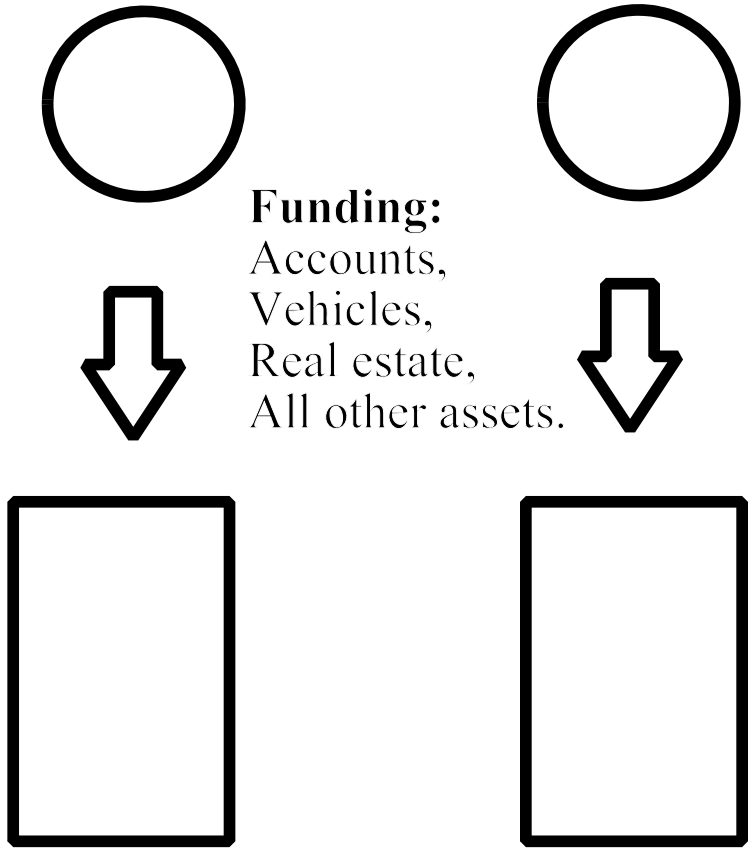
The cost of setting up a Living Trust, while more than the cost of a simple Will, is far less than the cost of Probate. A Living Trust also avoids the necessity of a Conservatorship if you are ever disabled. At the back of this booklet you will find our current Price List.

Notes:

 Copyright 5-21-07 William H. Kain©

Funding a Trust

Some attorneys recommend setting up a Living Trust, but not funding it until later. While this is legal, it is better practice to fully fund a Living Trust when it is set up. You should place all of your assets into the Trust so that it will not have to be done after your death. After all, it is easier to do this with your help while you are alive than to try to figure out how to do this with your assets when you are not around to answer questions about what you own. We use a Deed to transfer real estate into the Trust. Assignments are used for most other assets. Our office will assist you with all of the transfers into your Trust.



The Use of a Bypass Trust

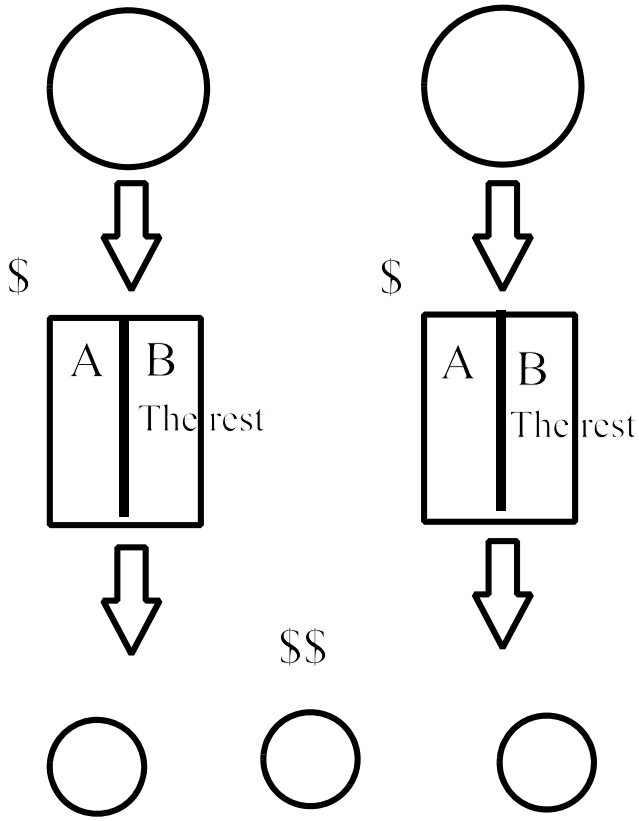
Notes:

 Copyright 5-21-07 William H. Kain©

- Doubling the federal tax credit.
- $13,990,000 per person can turn into $27,980,000 tax free for a couple.

A ***Bypass Trust*** is a specific type of Trust which assists a married couple in doubling the federal tax credit. The federal tax credit is called the "Applicable Credit Amount." The law will certainly change in the future, but no one knows exactly what the credit will be when Congress reviews the laws from time to time. Without a Bypass Trust, a married couple can pass $13,990,000 to their heirs without paying large estate taxes.

With a Bypass Trust, a married couple can double the applicable credit amount and pass $27,980,000 to the heirs tax-free. This will save several hundred thousand dollars of taxes. (The rest of the estate would go into the "B" Trust. Sometimes the A and B Trusts are called the "QTIP" or "Marital Trust" and the "Bypass" or "Credit Shelter Trust")

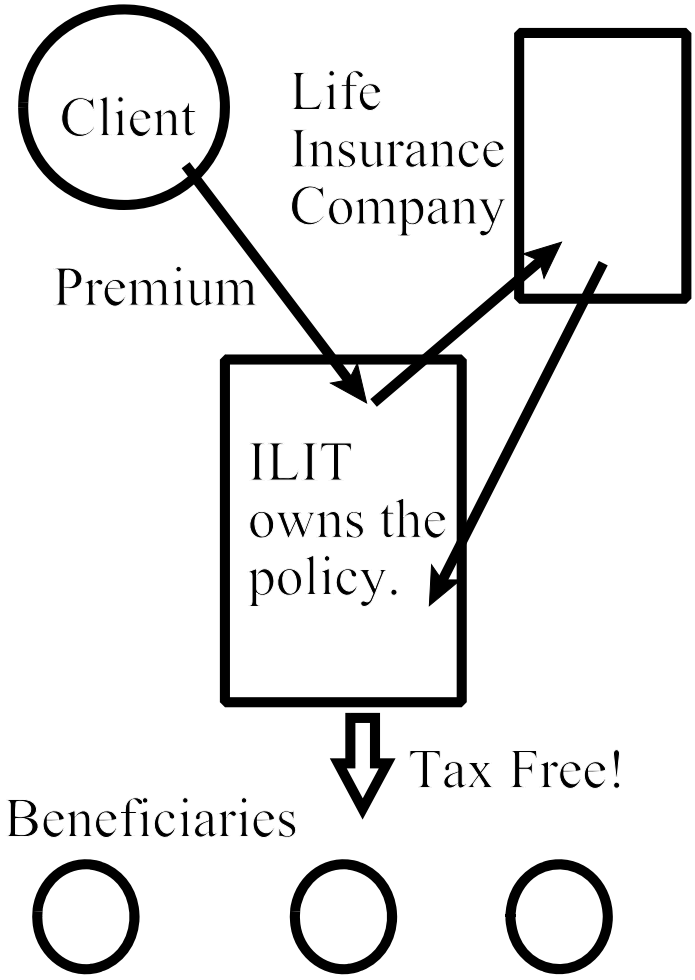


Notes:

 Copyright 5-21-07 William H. Kain©

The Irrevocable Life Insurance Trust

The death benefit payable from life insurance owned by a decedent at the time of death is **includable** in the taxable estate of a decedent. To avoid including the life insurance proceeds of a large life insurance policy in your taxable estate, an Irrevocable Life Insurance Trust can be used. For taxable estates this can save a large amount of taxes, making more money available for your heirs.

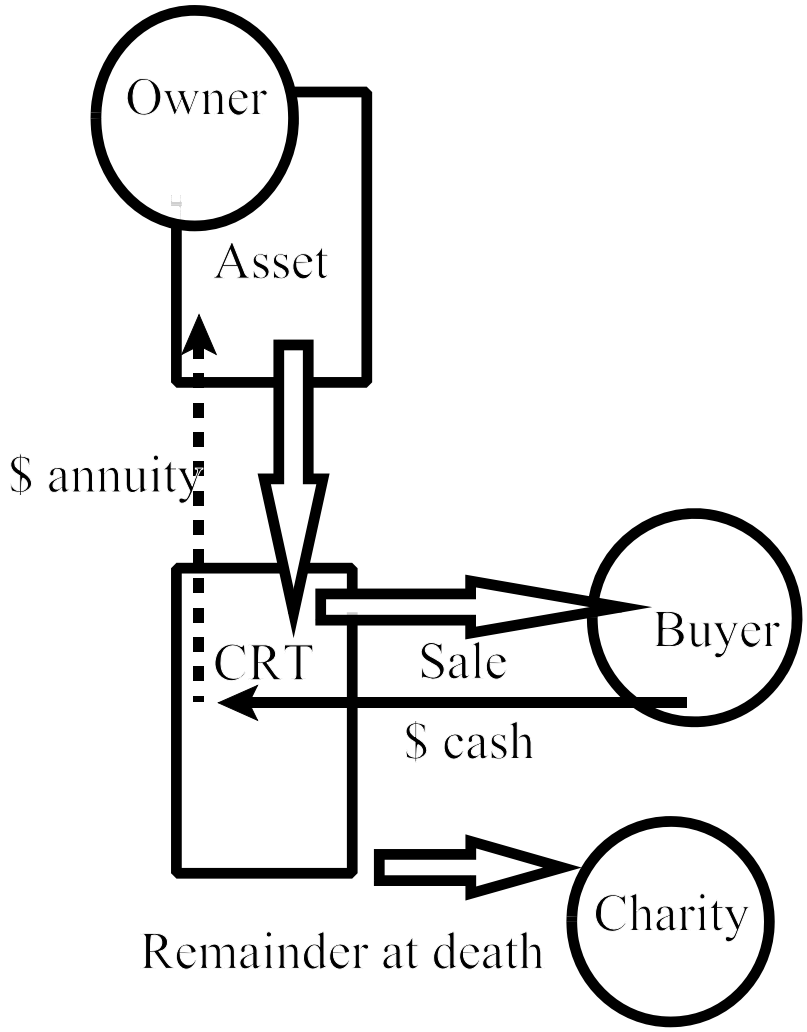


Notes:

 Copyright 5-21-07 William H. Kain©

The Charitable Remainder Trust

The ***Charitable Remainder Trust*** is a specific type of trust that can be used in conjunction with the Irrevocable Life Insurance Trust. For highly appreciated assets such as a ranch or apartment building, or stocks that have gone up significantly in value, the Charitable Remainder Trust can be used to **avoid capital gains taxes**. In conjunction with an Irrevocable Life Insurance Trust and the purchase of an annuity, a non-income producing asset can be turned into an income stream for life, with a large bequest to your heirs and to the charity of your choice.



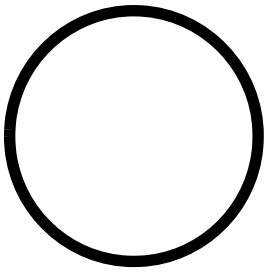
Notes:

 Copyright 5-21-07 William H. Kain©

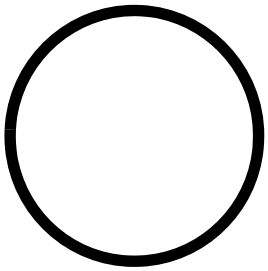
Appointment of Guardian; Trusts for minors

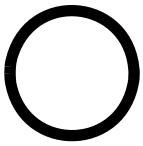
For clients with minor children, it is important to provide for who will raise your children. These persons should be carefully considered and named in your Will. A trustee should be appointed to manage the finances of the children until they reach majority.

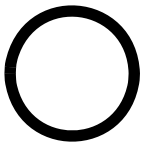
Guardian

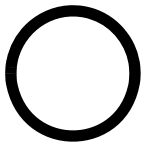


Trustee









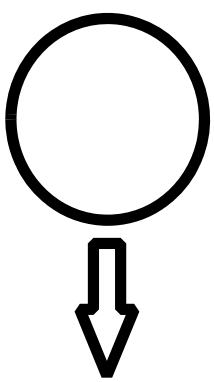
Notes:

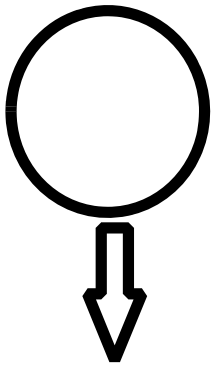
 Copyright 5-21-07 William H. Kain©

Lifetime giving

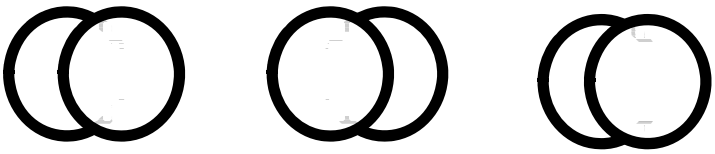
$19,000 per year per donee

Current law allows you to give $19,000 per year to each donee. For very large estates that might be subject to taxes, lifetime giving may be a good idea to deplete the estate down to the applicable credit amount.





At $19,000 per year from each spouse, $288,000 can be gifted annually to three children and their spouses.



Notes:

 Copyright 5-21-07 William H. Kain©

Medicaid Planning

- ♦ Long Term Care Insurance
- ♦ Self-insurance

We should consider the possibility that if we live long enough, we may need a nursing home to care for us in our later years. If so, who will pay for that care? With a properly drafted Durable Power of Attorney, the person you name in the Power of Attorney (your "Attorney-in-fact") will have the authority to make transfers to qualify you for Medicaid if need be. Medicaid is essentially a welfare program for persons with low income and minimal assets. For many clients a better option is Long Term Care Insurance for at least **five years.** At the end of three years, with proper planning, Medicaid can kick in to cover nursing home care.

PLANNING CAN BE VERY TECHNICAL!

Divestment Penalty Divisor	$7,854.00
Income Trust Gross Income Cap	
	$8,730.00 - Region I
	$7,776.00 - Region II
	$7,352.00 - Region III
	$7,559.00 - Region IV
Income Cap	$2,205.00
Individual Resource Allowance	$2,000.00
Monthly Personal Needs Allowance	$81.95
Community Spouse Resource Allowance	$120,900.00
Minimum Monthly Maintenance Needs Allowance	$2,030.00
Maximum Monthly Maintenance Needs Allowance	$3,023.00
Shelter Standard	$609.00
Standard Utility Allowance	$460.00
Resource Allowance for a Couple (Husband and Wife both reside in a facility)	$3,000.00

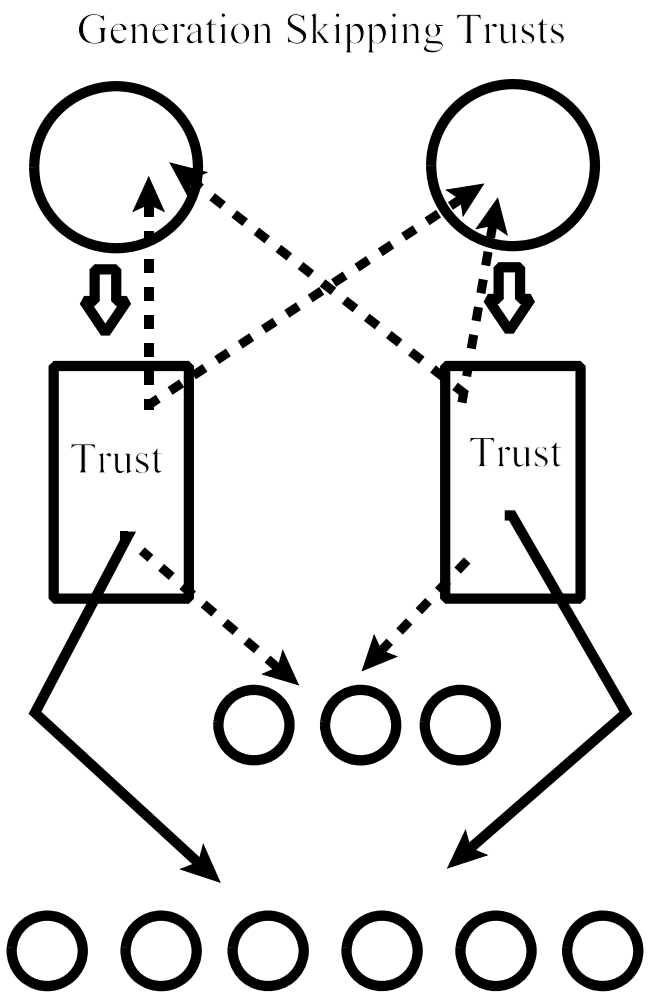
Last Updated October 1, 2017

Notes:

 Copyright 5-21-07 William H. Kain©

Generation skipping

If your estate is large and you would like to set up a ***Generation Skipping Trust*** for grandchildren and later descendants, a Generation Skipping Trust may be a way to benefit your heirs for generations to come. Current law restricts a Generation Skipping Trust to $13,990,000 per person (using 2025 rates) or twice that much for a married couple. With proper management by a Bank Trustee and with anticipated appreciation in value, this could increase in value to a sizable estate for your grandchildren and great-grandchildren. The money is available for education and other needs of your heirs, while being managed by a professional money manager in the Bank Trust Department. You can provide that all of the income be paid out to your heirs annually. Or you can make other provisions for how the money is to be spent, such as for education.



Notes:

 Copyright 5-21-07 William H. Kain©

Glossary

Some definitions

Adjusted Gross Estate -- your Gross estate for tax purposes less certain allowed deductions.

Ancillary Probate -- a separate Probate proceeding in another state for real property that is owned by the decedent in another state such as a vacation home.

Applicable Credit Amount -- the value of an estate which can pass free of estate taxes at death. This was previously called the "Unified Credit."

Beneficiary -- the person who receives your estate under your Will or Trust.

Bypass Trust -- a special type of trust for a married couple. It can be used to double the exemption, thereby allowing a married couple to pass more tax free to their heirs.

Conservator -- a person appointed by a court to manage the affairs of an incapacitated person.

Credit Shelter Trust -- another word for a Bypass Trust.

Advance Directive for Medical/Surgical Treatment -- a document which relieves a physician from liability if he carries out the family's desires and the decedent's desires to terminate artificial support for a terminally ill patient.

Durable Power of Attorney -- a document which appoints an Attorney-in-Fact for the purposes of managing your finances if you are incapacitated.

Executor -- another word for a "Personal Representative."This is the person who settles an estate under a Will through Probate.

Notes:

 Copyright 5-21-07 William H. Kain©

Family Trust -- also called a "Bypass Trust" or "Credit Shelter Trust," this can be used to double the exemption for the benefit of a family. The "Family Trust" is also often contrasted with the "Marital Trust" which is solely for the benefit of the spouse.

Fiduciary -- a fiduciary is a person who is charged by law with heightened responsibilities such as the management of monies under a Will or Trust. Fiduciaries are held to a high standard of responsibility. Examples of fiduciaries include Trustees, Personal Representatives, Conservators, Guardians and Powers of Attorney.

General Power of Attorney -- as contrasted with a Special or Limited Power of Attorney, a General Power of Attorney gives broad authority to the Attorney-in-Fact to manage finances.

Grantor -- also called a Trustor or Settlor, the Grantor is the person who establishes a Trust either for himself or others.

Gross Estate -- for federal estate tax purposes, the gross estate includes the assets of the decedent plus other items as defined by federal law which may be subject to estate taxes.

Guardian -- a person who cares for an Incapacitated Person. The term also refers to a family member named in a Will to care for your children after your death until their majority.

Immediate Power of Attorney -- as contrasted with a Springing Power of Attorney, an Immediate Power of Attorney goes into effect immediately.

Irrevocable Trust -- as distinguished from a Revocable Trust, a particular type of trust which cannot be revoked or amended by the grantor.

IRS Power of Attorney -- Form 2848 issued by the IRS allows you to name the

Notes:

 Copyright 5-21-07 William H. Kain©

person who can file a tax return for you if you are disabled or incapacitated.

Joint Tenancy -- as contrasted with Tenancy in Common, Joint Tenancy is a form of co-ownership in which your co-owner automatically owns your share of the property upon your death.

Last Will and Testament -- a document which directs how your property shall be distributed at your death. A Will is normally Probated through the Probate court in the county in which you resided at death.

Living Trust -- as distinguished from a Testamentary Trust, a Living Trust is set up during your life. The Trustee that manages the Trust makes payments as directed in the trust document.

Living Will -- a document which provides that the signer wishes to have artificial life-support terminated in a hopelessly terminable illness.

Long-term Care Insurance -- a type of insurance which will pay for nursing home care.

Marital Trust -- a type of trust which pays income for life to the surviving spouse.

Medicaid -- a federal program which will pay for nursing home care if income and assets are below a certain level.

Medical Power of Attorney -- a document which names the person or persons who may make medical decisions for you if you are incapable of making those decisions yourself.

Multiple Probate -- this term refers to the necessity of having Probate in more than one state if you own real estate in more than one state. This can be avoided by using a Living Trust.

Payable on Death (P. O. D.) -- a designation on a bank account or other

Notes:

 Copyright 5-21-07 William H. Kain©

investment which states to whom the account would be paid on your death.

Personal Representative -- another term for "Executor," the person who will settle your estate through Probate under your Will.

Personal Property -- all the property that you own other than real estate.

Pourover Will -- a Last Will and Testament which pours over to a Living Trust.

Power of Attorney -- a document which names the persons who will handle your finances in case of incapacity.

Probate Estate -- that portion of your estate passing through the Probate Court.

Probate -- the process of probating a Will through the Probate Court.

Protected Person -- an incapacitated person over whom the Court has jurisdiction in a Guardianship or Conservatorship.

Qualified Terminable Interest Property (QTIP) -- a special type of Marital Trust which allows a married person to control the disposition of the Trust yet still retains the Marital Deduction. All income from the Trust is paid to the surviving spouse, and upon the death of the surviving spouse, the Trust is then paid to the decedent's heirs.

Quit Claim Deed -- a special type of deed which can be used to transfer assets into a Trust. No warranty of title is made, unlike a warranty deed.

Real Property -- as distinguished from personal property, real property is a term which refers to real estate such as lands and buildings.

Revocable Trust -- a Living Trust where the grantor retains the right to revoke or amend the Trust.

Notes:

 Copyright 5-21-07 William H. Kain©

Special Power of Attorney -- a type of Power of Attorney which is granted for only a special purpose, such as for a particular real estate transaction only.

Specific Bequests -- paragraphs of a Last Will and Testament which provide for specific items to go to certain persons. For example, "my grandfather clock to my son John."

Springing Power of Attorney -- this is a special type of Power of Attorney which springs into effect on the occurrence of a special event such as disability.

Statutory Power of Attorney -- a Power of Attorney form created by statute which must be accepted by any bank or brokerage.

Stepped-Up-Basis -- an increase in your tax basis at time of death which will save your heirs capital gains taxes.

Successor Trustee -- the Trustee that takes over after the death, incapacity, or resignation of a previous Trustee.

Taxable Estate -- the Gross Estate less certain deductions.

Tenancy-in-Common -- a form of co-ownership which does not include a right of survivorship, as distinguished from Joint Tenancy.

Testamentary Trust -- a Trust created in a Last Will and Testament, as distinguished from a Living Trust.

Testator -- a person who dies with a Will.

Testatrix -- a female person who dies with a Will.

Transfer on Death (TOD) -- a type of account which names a person to whom it is transferred upon death.

Notes:

 Copyright 5-21-07 William H. Kain©

Trust -- a document created by a Grantor which designates a Trustee to manage assets.

Trustee -- the person who manages a Trust, often a trust department of a bank or a trusted individual.

Trustor -- another word for a Grantor, the person who sets up a Trust and transfers assets to it.

Unified Credit -- now called the "Applicable Credit Amount," it shelters $1 million from estate taxes.

Unlimited Marital Deduction -- a deduction available to shelter all assets given to a surviving spouse at death.

Warranty Deed – a type of deed for real estate wherein the title to the property is warranted by the Grantor, as distinguished from a Quit Claim Deed which only transfers whatever interest the Grantor may in fact own.

Will Substitutes -- methods of transferring property without Probate, such as a Living Trust, Joint Tenancy property with right of survivorship, life insurance, and payable-on-death accounts.

Notes:

 Copyright 5-21-07 William H. Kain©

Price List

Complete estate plan including drafting:	**Per person**:
♦ Last Will and Testament	$750
♦ Living Trust	$2,500
♦ Durable Power of Attorney	$500
♦ Colorado Statutory Power of Attorney	$500
♦ IRS Power of Attorney	$200
♦ Colorado Power of Attorney	$200
♦ Medical Power of Attorney	$500
♦ Living Will	$500
♦ Advance Directive for Medical/Surgical Treatment	$500
♦ Specific Gifts Upon Death	$150
♦ Other ancillary documents	$500
♦ Signing Ceremony	$500
♦ Competency Questionnaire	$500
♦ Total per person if no package	$7,800

Other Services:

Draft Irrevocable life insurance trust	$5,000.00 per person
Draft Charitable remainder trust	$7,500.00 per person
Conferences	Billed separately
Draft Quit Claim Deeds	$500.00 each
Draft Transfer documents	$750.00
Signing Ceremony	$500.00
Competency Questionnaire	$500.00

We request payment before we begin work. Thank you for your business!

 Copyright 5-21-07 William H. Kain©

DRAFTING PACKAGES:

Example A; Single person without Trust

Draft Complete Estate Plan without trust: $2,500

Example B; Married Couple without Trust:

Draft Husband Complete Estate Plan without trust: $2,375
Draft Wife Complete Estate Plan without trust: 2,375
Total $4,750

Example C; Married Couple <u>with</u> Trust

Draft Husband Complete Estate Plan with Trust: $2875
Draft Wife Complete Estate Plan with Trust: 2875
Draft Transfer documents 750
Draft Quit Claim Deed on real estate (each). 500
Total $7,000

Example D; Married Couple <u>with</u> Bypass Trust (Large Estate)

Draft Husband Complete Estate Plan with Trust: $5,375
Draft Wife Complete Estate Plan with Trust: 5,375
Draft Transfer documents 750
Draft Quit Claim Deed on real estate (each). 500
Total $12,000

Example E; Single Person <u>with</u> Trust

Draft Complete Estate Plan with trust: $3,000
Draft Transfer documents 750
Draft Quit Claim Deed on real estate (each). 500
Total $4,250

ADDITIONAL BILLING FOR CONFERENCES AND OTHER WORK:
Time expended by attorneys and staff for conferences and legal services beyond the above drafting is billed at our regular rates. A retainer is required for those services, along with our standard fee agreement.

Date: _____

_____ Client

_____ Client

 Copyright 5-21-07 William H. Kain©

Order Form

❑ Example A; Draft **SINGLE PERSON** complete estate plan **without Trust** . . . . . $2,500 _____

❑ Example B; Draft **MARRIED COUPLE** complete estate plan **without Trust** . . . . . $4,750 _____

❑ Example C; Draft **MARRIED COUPLE** complete estate plan **with trust** . . . . . $7,000 _____

❑ Example D; Draft **MARRIED COUPLE** complete estate plan **with bypass trust** . . . . . $12,000 _____

❑ Example E; Draft **SINGLE PERSON** estate plan **with trust** . . . . . $4,250 _____

❑ Draft Irrevocable Life Insurance Trust . . . . . $6,500 _____

❑ Draft Charitable Remainder Trust . . . . . $8,250 _____

❑ Draft QPRT, CRAT, GRAT, etc. . . . . $10,750 _____

❑ Draft Extra Quit Claim Deeds for additional properties . . . . quantity: ___ x $500 _____

✓ Conference time is included in Flat Fee Agreement. . . . . _____

❑ Other services, please describe . . . . . _____

_____

_____

TOTAL . . . . . $_____

Terms: **Payment is appreciated in advance.** Please read and sign the Engagement Agreement (incorporated herein by reference) and the Fee Agreement. Additional time and services will be billed separately. You will be charged for any consultation time. We appreciate payment for consultations at the time of services.

Date: _____

_____ _____

Client Client

 Copyright 5-21-07 William H. Kain©