



MARTIN | PRINGLE
ATTORNEYS AT LAW

Asset Protection

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Topics

- n What?
- n Why?
- n How?
- n When?
- n Where?



What to Protect?

n Titled Property

- q Real Estate & Buildings
- q Stock Certificates & Bonds
- q Funds in Bank Accounts
- q Investment Funds
- q Motor Vehicles

n Other Property

- q Furniture
- q Jewelry
- q Livestock

Why to protect?

- n Professional negligence
(Malpractice claims)

- n Wrong place, wrong time
 - n Direct claims
 - n Last one standing

Why to protect?

n Other Liabilities

- q Employment lawsuits
- q Real Estate lawsuits
- q Government claims
(STARK, Anti-Kickback)
- q Claims by fellow Physicians
(practice partners)
- q Claims related to investments

Why: Taxes— Gift

n Federal Gift Tax

q Exemption Amounts

n 2009—\$3,500,000

n 2010—?

q Can only use \$1,000,000 during lifetime

q \$13,000 annual gift exclusion for 2009

q Unlimited medical & education exclusion

q Rate—graduated up to 45%

Why: Taxes— Estate

- n Federal Estate Tax

- q Exemption Amounts

- n 2009—\$3,500,000

- n 2010—?

- n Rate—graduated up to 45%

- n Future Amounts

- q Pending

Why: Taxes— Kansas Estate



n Kansas Estate Tax

q Exemption Amount—\$1,000,000

q Tax Rates

n 2009—.5% of excess up to \$1,000,000,
1% of excess up to \$3,000,000

n 2010—no Kansas estate tax unless the
Legislature acts

Why: Summary

- n Third party-claims

- q Employees

- q Patients

- n Creditor Claims

- q Personal Debt

- q Business Debt

- n Government Claims

- q Regulatory

- q Taxes

Topics

- n What?
- n Why?
- n How?
 - q 6 simple tools
- n When?
- n Where?



How: 6 simple tools

1. Homestead
 2. Retirement Accounts
 - q qualified plans
 - q IRAs
 - q 529s
 3. Spousal Ownership of Property
 4. Life insurance
 5. Limited liability entities for practice and investments
 6. Estate planning
 - q Wills
 - q Trusts
- (Bankruptcy Limits / Fraudulent Transfers)



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How: Wills

- n A written instrument in *proper legal form* specifying the disposition of probate assets
- n Governs only probate property
 - q Non-Joint Tenancy Titled Property
 - q Non-TOD/POD Titled Property
 - q Non-beneficiary Titled Property
- n Can appoint Guardians for minors
- n Can create a living trusts based on various events

How: Wills

- n What decisions are made in a will?
 - q Designate beneficiaries
 - q Designate what property and how much
 - q Designate whether a beneficiary receives property outright or held in trust
 - q Designate executor/trustee
 - q Designate a guardian for minor children

How: Trusts

- n Living Revocable Trusts

- q Doesn't completely replace a will
- q Does almost everything a will can do
- q Based on the complexity of the estate & the unique circumstances or family situation
- q Advantages
 - n Probate Avoidance
 - n Tax Planning
 - n Perpetual [Probate is limited]
 - n A Trust = An individual
 - n Protection for Beneficiaries
 - n Privacy & Certainty

How: Revocable Trust

- q **What is a it?**

- q Creator, trustor or settlor
- q Trustee—initial & successor
- q Beneficiaries
- q Trust agreement

- q **Funding the revocable trust**

- q Transferring title of probate assets to the trust
- q Designating the trust as beneficiary of life insurance and IRAs

How: Revocable Trusts

- q **Benefits of a properly funded revocable trust**

- q Probate avoidance – both locally and in other states
- q Private and more difficult to challenge
- q Avoids conservatorship and incapacity/disability issues
- q Easier to execute, amend and keep current

- q **Disadvantages of a revocable trust**

- q More work to create and fund
- q Only avoid probate if funded with assets

- q **Selection of trustee**

- q Individual v. Corporate
- q Age v. Beauty (qualification)

Why estate planning?

- n A good estate plan accomplishes 3 things:
 - q Transfer of property at death—to whom, how much and when?
 - q Minimizes
 - n Taxes
 - n Administrative costs
 - n Time
 - q Protects against incapacity and disability
 - n DPOAHC
 - n DPOAFD

No Estate Plan— Dying Intestate

- n Why do people die without an estate plan?
 - q Do not have the time
 - q Too complicated, do not know where to begin
 - q Cannot decide what to do
 - q Too expensive
 - q I am not going to die
 - q All of the above

How: 6 simple tools

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 - q Wills
 - q Trusts

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- n What?
- n Why?
- n How?
- n **When?**
 - q Right Away
- n **Where?**
 - q With legal counsel



Asset Protection

- n Assets Protection ≠ Offshore Trust.
- n Identify Real Risks and Threats Versus Those That Are Remote and Unlikely.
- n Identify and Prioritize Assets.
- n Implement the Plan Now Rather Than Waiting Until Something Bad Happens.

Asset Protection

- n Review and Analyze the Ownership Structure of Your Business Assets.
- n Establish a Comprehensive Investment Program Which Utilizes Available Exemptions.
- n Don't Unintentionally Unwinding the Plan by Failing to Develop an Estate Plan.
- n You Must Be Willing to Give Up a Certain Amount of Control.

Last Minute Advice

- n Statute of Frauds and Written Agreements
 - q Don't make verbal deals
 - q Don't sign anything that hasn't been reviewed by counsel

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THE END

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Thank You

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