

Trusts & Estates Group

Planning for the Future... on Your Terms



Breadth. Depth. **Results.**

You've worked hard to build your career and business and to establish a solid financial foundation for your family and loved ones.

With all you've done to get where you are today, it only makes sense that you should also determine how you and your family will be cared for and how your assets will be invested, managed and distributed—now and in the future. Estate planning offers an opportunity to ensure that your assets will be distributed according to your wishes and accomplish your goals and objectives, during and after your lifetime.

The Trusts & Estates Group at Seyfarth Shaw LLP is a sophisticated, experienced team of attorneys that provides individual attention and service while helping you develop an estate plan that meets your unique needs, circumstances and objectives.

How Seyfarth Shaw Can Help

Estate planning is important to everyone, regardless of an individual's age, income level or net worth. Effective estate planning is an ongoing process that acknowledges and

responds to both expected and unexpected changes in your family, health, financial circumstances and tax and other laws. A well-crafted plan need only be revisited periodically in order to accommodate changed personal, economic or business circumstances, revisions in tax, inheritance or other laws, or new choices regarding the disposition of assets or designation of fiduciaries. Further, the peace of mind and tax savings that can be achieved as a result of creating an effective plan will more than justify the time and thought required to make sure that personal and financial decisions will be honored during and after your lifetime.

The attorneys of Seyfarth Shaw's Trusts & Estates Group help clients recognize their individual circumstances, values and objectives and assist them to chart a financial and legal course that will enable them to effectively direct and secure their futures and those of their families and beneficiaries.

I don't have an estate plan; why do I need one?

Without an estate plan, state law will determine to whom and in what manner your assets are distributed after your death. With an estate plan, you ensure that your family is cared for

*Together we can
design a plan
that meets your
unique needs,
circumstances
and objectives.*



and that your assets are administered in the manner that best accomplishes your goals and objectives. Implementation of an estate plan requires the preparation and execution of important legal documents, including wills, trusts and powers of attorney.

An effective estate plan can help you:

- Administer and distribute your property during life and after death.
- Designate responsibility for your affairs at death, including the naming of executors, trustees and guardians for minor children.
- Organize your estate and affairs in a manner that protects you and your family.
- Prepare for your disability or incapacity, including the designation of guardians and agents under powers of attorney.
- Minimize state and federal income and transfer taxes.
- Protect you and your family from creditors.
- Establish financial rights and obligations in connection with an impending marriage.
- Plan for an expected inheritance.
- Avoid court probate proceedings.
- Safeguard your spouse, children and other beneficiaries through the use of trusts and the designation of trustees.

*You already
have a default
estate plan—
the State's plan.*

I already have an estate plan; why should I consider making changes?

Your life is constantly evolving. Some circumstances will change simply through the passage of time: the maturation of a child, your own or your spouse's retirement, or the death of a spouse. Other events, such as marriage, the birth of a child or grandchild, the sale of a business or the receipt of an inheritance may also occur. All of these may influence or change your decisions about how your estate should be distributed and present opportunities to maximize the transfer of wealth and reassess objectives.

We recommend that you revisit your estate plan periodically, and whenever changes occur in the following areas:

- State and federal income or transfer tax laws.
- Asset ownership and values, including sales, purchases and other changes in title.
- Family circumstances, such as births, adoptions, deaths, marriages and divorces.
- Health which affects the ability to manage the financial affairs of yourself and your family.
- Personal wishes regarding beneficiaries, fiduciaries, charitable causes and the like.
- Professional and career paths, such as promotions, retirement or receipt of assets from benefit plans.
- Business, including establishing a new business or your company going public, merging or being sold.

We can help you recognize your individual objectives based on where you are now...and where you want to be.



Seyfarth Shaw and the Trusts & Estates Group

Our Trusts & Estates attorneys have extensive experience advising clients regarding their estate planning needs and estate and trust administration. Several members of the group have been practicing for decades, and collectively we have prepared thousands of estate plans and administered countless estates and trusts. We often represent several generations within the same family, a fact which demonstrates the effectiveness of our services and our long-term commitment to our clients.

Our lawyers are active in the trusts and estates legal community, as well as in the community at large. Many of our attorneys have been honored by their peers and have sat on boards of directors of charities and businesses, and served as fiduciaries of many trusts, public charities and private foundations. Additionally, they share their knowledge via conferences, seminars and public speaking engagements.

The Trusts & Estates Group of Seyfarth Shaw understands that each client and each estate plan is unique. While we enjoy the benefits and resources of practicing within a full-service, national law firm, we also provide the individual attention you might expect of an estate-planning boutique or smaller firm.

We understand the sensitive dynamics of family, financial and business decisions, and the special issues facing those whose personal and professional lives are closely intertwined. Perhaps most importantly, we are results-oriented; we first help clients recognize their objectives, and then focus our full skills and experience on the creation of an effective, individualized estate plan that accomplishes those objectives.

Our Approach

Our typical client is anything but “typical”—in fact, our clients are a reflection of the diversity found in the economy and society as a whole. We counsel individuals and families of all levels of wealth, from individuals with relatively modest assets to those of substantial means. Our clients can be found at nearly every stage of life, from young families to retirees and surviving

spouses, and at various levels of business and professional development, including entrepreneurs, executives and owners of established, multinational businesses. We provide guidance on the full range of estate planning and trust and estate administration matters, from the most simple to the extremely complex, with a firm belief in the importance of each of our client's financial and personal goals, no matter how large or small.

Integrated Client Services

The Trusts & Estates Group is an integral part of Seyfarth Shaw's full-service practice. As situations or issues arise, we can tap the extensive talent pool within the firm in order to obtain effective legal advice in nearly every area of law, delivered seamlessly and with the same high level of service provided by attorneys within the Trusts & Estates Group. We also work regularly with our clients' other advisors, or, if requested, can recommend other professionals from our extensive network of contacts, to ensure that issues are addressed from several perspectives.

We are committed to delivering legal counsel that is:

- **Personal**—being attentive to you and sensitive and compassionate about your concerns.
- **Practical**—developing real-world solutions for real-world challenges.
- **Efficient**—through the development and use of established practices and procedures.
- **Competitive**—delivering value-added effective legal counsel and quality service.
- **Staffed effectively**—through the use of attorneys having experience with your particular issues and concerns.
- **Well-versed**—in emerging legal trends, through our scholarship and participation in seminars around the country.

Estate and Gift Planning

Perhaps the first question our clients ask is "How can I protect my family and ensure that my assets will be distributed according to my wishes?" To answer this question, we work with clients to select appropriate planning tools and legal strategies from the wide range of possibilities.

Wills

We assist clients with all aspects of creating wills so as to ensure the appropriate distribution of a client's assets upon death. Effective advance planning can eliminate many of the delays and expenses associated with settling an estate. An important aspect of our services is helping clients first identify assets, beneficiaries and potential debt and tax obligations, and then determine the appropriate type of will—from simple to complex—that helps make sure that their wishes are honored. We help clients choose personal representatives, trustees, and guardians.

Trusts

Throughout life and after death, trusts offer individuals a variety of means to achieve their goals and objectives. In many cases establishing trusts enables clients to reduce the value of their estates, protect their beneficiaries, minimize estate taxes and avoid probate. Trusts can also help individuals plan for incapacity and hold assets for the benefit of minors or others. We help clients identify their objectives and determine the most appropriate trusts to meet their unique goals. In doing so, we have recommended, and are experienced with, a broad range of trusts, including revocable living trusts, gift trusts, charitable remainder and charitable lead trusts, education trusts, multi-generational trusts and life insurance trusts.

Tax Planning

Effective estate planning employs strategies to minimize income, gift, estate and generation-skipping taxes. We also frequently advise clients on methods to minimize income taxes, including obtaining charitable deductions and saving for education we assist with the selection of assets to be gifted, provide guidance on maximizing annual exclusion gifts and utilizing exemptions from gift, estate and generation-skipping tax, and counsel clients on structuring their assets and estate plans to minimize such transfer taxes. Because tax laws and economic circumstances are constantly changing, we help clients take advantage of new opportunities and modify existing plans in light of such changes to obtain favorable tax benefits.

Charitable Gift Planning

Charitable gifts often accomplish multiple goals. They provide much-needed financial support to charitable organizations and offer income, estate and gift tax savings to the client. However, the rules regarding the tax treatment of charitable gifts are complex, and the tax consequences of such gifts can differ during life and at death. We work with our clients to determine the most appropriate options, including outright lifetime gifts, testamentary bequests, pooled income funds, charitable trusts, private foundations, donor-advised funds and charitable gift annuities, among others.

Life Insurance Planning

Regardless of income level or asset base, life insurance is an important tool to provide financial support for the heirs and liquidity to pay estate taxes or other expenses. Liquidity may be of particular concern to owners of small businesses who wish to ensure that the business remains in the family and to clients whose assets are largely illiquid. We help clients determine and implement strategies to minimize potential estate tax liabilities associated with the ownership of life insurance, through the use of gifts, trusts and other tax-saving techniques.

Disability Planning

Among the most significant concerns of many of our clients is developing a plan to be employed in the event of a disability to ensure that they, as well as their dependents, are provided for and receive proper care. At Seyfarth Shaw, we outline strategies to address the financial and personal implications of disability or incapacity, through the effective management of assets and the documentation of health care wishes. For example, we help clients create and fund trusts, designate guardians, and establish powers of attorney for both property and health care, as well as advance health care directives and living wills.



Retirement Planning and Beneficiary Designations

For many of our clients, retirement accounts are a significant asset. The accumulation of wealth in these accounts often creates considerable estate planning and income tax challenges. The establishment of retirement accounts also provides opportunities for business owners and employees to obtain significant tax deductions by setting aside pre-tax income. We work with clients at every stage of the retirement-planning process, from helping them determine the most appropriate beneficiary designation to achieve their goals, to advising them regarding distribution options and their corresponding tax ramifications. Throughout the process, we analyze the range of personal, legal and financial factors that influence our clients' decisions, such as minimizing estate taxes and obtaining creditor protection, and help our clients make effective choices and take appropriate action.

Premarital, Postmarital and Domestic Partnership Agreements

As once-traditional professional and interpersonal roles have given way to more diverse personal choices, so have the complexities surrounding many couples' financial relationships. Whether clients are considering marriage, married, divorced, widowed or living together in a committed relationship, it is important that they address the many issues surrounding the management of their financial assets. We develop and implement premarital agreements and other contracts that help our clients preserve and protect family assets in every stage of their relationship, classify marital property, and ensure that their wishes will be carried out in the event of separation, divorce, death or incapacity.

Asset Protection

The most carefully thought out estate plan can be destroyed if a substantial part of a client's assets are lost to creditors. We advise clients of the various techniques that are available to protect their assets from the claims of creditors. This can be as simple as having title to property held by a husband and wife as tenants by the entirety or as sophisticated as setting up an offshore trust, with a number of alternatives between these two extremes.

Implementation

Once a client's estate plan has been formulated and the relevant documentation prepared and signed, there are important details which must be considered and actions that must be taken to ensure that the plan will operate as intended. We assist and guide clients with the mechanics of administering estate plans. For example, we help them avoid the probate of their estates upon their deaths by fully funding their revocable living trusts, completing insurance and retirement account beneficiary designations and accomplishing title transfers, including the preparation and recording of deeds. We also frequently review and prepare gift tax returns which report gifts made by our clients in connection with their estate planning.

We outline strategies to address the financial and personal implications of disability or incapacity, through the effective management of assets and the documentation of health care wishes.

Business and Succession Planning

For privately held businesses, few issues are as critical to the long-term survival of the company as effective, proactive business and succession planning. We represent clients in the full range of business preservation and succession issues, assuring the viability of their business interests both during and after their lifetimes and preserving the value for their beneficiaries. In this regard, we utilize a range of strategies, including negotiation and creation of buy-sell and other shareholder agreements, and the use of appropriate life insurance planning techniques, among other options. We work with clients to protect the interest of younger family members who will not be actively involved in the operation of the family business after their parents' deaths.

Given the broad spectrum of legal issues that come to bear on business preservation planning, we often work closely with other attorneys from Seyfarth Shaw's Business Services Group to coordinate and apply their skills and knowledge to our clients' particular circumstances and objectives.

Buy-Sell Agreements

Buy-sell agreements are often an essential part of a well-crafted business succession plan. They help prevent transfers to third parties without approval by other shareholders, create a mechanism for sale upon a shareholder's death, provide exit strategies in the event of a shareholder's disability or retirement, and avoid disputes over valuation and price. Such agreements can often make certain that privately held and family businesses remain with those shareholders who wish to retain ownership and assure the continuity of the business, while meeting the needs of other, less-involved shareholders. We work with clients to develop buy-sell agreements that enable family members and others who are actively engaged in the business to acquire the interests of other family members or shareholders who desire to liquidate their interests. We represent clients throughout the highly sensitive negotiation process as these key decisions are made, helping them balance their tax, business and other financial considerations with those of existing and future shareholders.

S-Corporation Planning

Privately held businesses often operate as S-corporations. While S-corporation status offers certain income tax advantages to business owners, it can also present unique gift and estate tax challenges when transferring the ownership of the business. Many complex tax rules govern the ownership and taxation of S-corporation stock. We work with clients to develop the appropriate estate planning provisions for the retention or disposition of their S-corporation stock.

FLPs and LLCs

Family limited partnerships (FLPs) and limited liability companies (LLCs) have many traditional business purposes. For tax and estate planning purposes, they are often also used to shift income and assets to other family members in connection with lifetime gifts, or, if minority interests are owned, in connection with transfers upon death. They may enable clients to make gifts and transfer assets at a discounted value because of provisions which limit control and restrict transferability of ownership and the right to receive distributions. Given the complex tax issues in this evolving area, the use of FLPs and LLCs requires careful analysis to determine if they are appropriate strategies for reducing the taxable value of a client's estate. We regularly assist in the formation of FLPs and LLCs, counsel clients on appropriate procedures, prepare resolutions, minutes of meetings and annual filings, help clients meet state and federal reporting requirements, and handle other routine administration matters.

Valuation Issues

Valuation of business concerns has significant estate planning, tax, and business and succession planning consequences for business owners and their families. Valuations of business interests impact the amount of estate taxes which may

be assessed upon an owner's death, the magnitude of distributions from the business and the value of the interests for purposes of sale or lifetime gifting. We work closely with business-valuation experts to represent clients before taxing authorities and to ensure that their business interests are properly valued.

Estate and Trust Administration

The Trusts & Estates Group represents executors, trustees and guardians in the full range of estate and trust administration services. Our attorneys are also often called upon to represent beneficiaries with respect to their interests in estates and trusts.

Probate

Probate is the court process for settling a decedent's estate, ensuring that assets are properly identified and administered, that debts, taxes and expenses are paid, and that the remaining assets are distributed to the beneficiaries. In addition to our work prior to a client's death, we represent personal representatives and beneficiaries throughout the probate process, including opening and closing estates, collecting assets, filing and defending against claims, and counseling on transfer tax matters, income tax planning, disclaimers and resolution of conflicts among beneficiaries.

Trust Administration

The administration issues which arise with respect to trusts are similar to those with respect to probate, except they are usually handled outside of the court process. While probate generally lasts only a short time, trusts may last many years and over the lives of many generations. There are many types of trusts—almost too numerous to list. There are trusts which are created during life, and those which are created upon a person's death. There are trusts which are created for tax purposes, and those which are motivated by other considerations. There are trusts which are created for the benefit of the individual who created the trust, and those which are created for the benefit of others. We assist clients in administering trusts both during the creator's life and after death. Ongoing representation of fiduciaries and beneficiaries is often necessary in connection with the administration of trusts regarding distributions, investments, interpretation of documents and taxation.





We frequently help clients formulate and put in place effective tax strategies that achieve significant income and transfer tax savings.

Tax Matters

In administering estates and trusts, many income, gift and estate tax matters often arise. We work with our clients, their accountants and other advisors in preparing and reviewing fiduciary income tax, gift tax and estate tax returns. We frequently help clients formulate and put in place effective tax strategies that achieve significant income and transfer tax savings, including advising clients on disclaimers and distribution matters. We are also experienced in advising clients regarding contested tax matters, and when tax disputes arise, we represent our clients in all levels of audits and before taxing authorities.

Contested Estate and Trust Matters

We represent both fiduciaries and beneficiaries in disputes regarding estates and trusts. We have significant experience handling will and trust contests, contested claims, will and trust construction matters, and trust reformation matters. We draw on the breadth and depth of our experience to resolve disputes in a manner that minimizes litigation expenses. In those instances where we cannot resolve disputes through negotiation, we work with the attorneys of Seyfarth Shaw's Litigation Group to vigorously represent our clients' interests in court.

Guardianship of Minors and Disabled Adults

In those circumstances where it is necessary to appoint a guardian of the estate or person of a minor or disabled adult, we work closely with our clients to help them identify appropriate guardians, and when necessary, initiate legal proceedings to handle the personal and financial affairs of the minor or disabled adult. After a guardianship estate is opened, we assist the guardian in all phases of its administration.

Private Foundations and Other Charitable Organizations

Private foundations, public charities and other tax-exempt entities offer many clients an ideal vehicle for pursuing social, public service and charitable goals while reducing the value of their estates and minimizing tax burdens. The creation of, and gifting to, private foundations and public charities can be a key component of an effective estate plan and provide significant tax advantages. However, tax-exempt organizations also face many unique and strict requirements for maintaining their special tax status. In addition to our work helping families set up and manage charitable trusts and private foundations, the attorneys of the Trusts & Estates Group have significant experience as counsel to a number of public charities.

Formation of Entity

We help clients determine the appropriate means to accomplish their charitable goals. In some cases, our recommendations may be as simple as making an outright gift or contributing to a donor-advised fund, while in others, we may counsel clients to establish a family foundation. In the latter instance, we assist with establishing the structure for charitable trusts and foundations, counsel clients on whether the organization should be formed as an independent organization, or as a supporting organization to further the work of an existing public charity, and obtain tax-exempt status for the entity.

Administration of Charitable Entities

We provide legal advice on appropriate procedures, operations of boards of directors, preparation of board resolutions and minutes of meetings, and other activities associated with the successful management of tax-exempt organizations. We help clients ensure that tax-exempt organizations are properly registered with state authorities, prepare annual filings, meet state and federal reporting requirements, establish and monitor grant procedures, and handle the day-to-day administration of charitable trusts and corporations.

Creating Family Legacies

Charitable trusts and foundations can provide an excellent opportunity to involve an entire family in the giving process and promote philanthropy across multiple generations.

Such family-run institutions offer younger generations an opportunity to participate in the management and direction of the organization while developing their business acumen, a sense of responsibility, and pride in their family's contributions to their community.

Public Charity Representation

In addition to our services on behalf of private foundations, we, along with other attorneys from Seyfarth Shaw's Business Services and Labor and Employment Groups, regularly advise public charities on various matters, such as lobbying activities, employment issues, management contracts, leases and benefit plans. We frequently counsel public charities in connection with the estate, gift and income tax issues related to charitable trusts and other planning techniques for their benefit. We also assist public charities in working with donors to facilitate gifts and contributions to the organization. Our efforts on behalf of these organizations also give us insight on how to best achieve the charitable goals and objectives of our individual clients.

About Seyfarth Shaw

Seyfarth Shaw was founded in 1945 by three lawyers and has grown to more than 750 lawyers across ten offices. We handle issues for our clients in all key areas including labor and employment, commercial litigation, construction, corporate and finance, employee benefits, environmental, government contracts, intellectual property, litigation, real estate, securities litigation, trade secrets, trusts and estates, and workouts and bankruptcy, among others.

Our success is the result of a constant, unrelenting focus on the needs of our clients. Our commitment to excellence and our belief in the strength of a team-based approach to the delivery of our services offers an atmosphere of creative and innovative thinking.

Our clients are our partners in business and we are committed to listening to their needs and to aligning the skills and abilities of our people to respond to those needs. Our clients range from *Fortune* 100 to midsize companies, and include publicly traded and privately held companies. We represent clients of all sizes across all industries and we are diligent in providing the same level of commitment to each client.

ATLANTA

One Peachtree Pointe
1545 Peachtree Street, N.E., Suite 700
Atlanta, GA 30309-2401
404-885-1500
404-892-7056 fax

BOSTON

World Trade Center East
Two Seaport Lane, Suite 300
Boston, MA 02210-2028
617-946-4800
617-946-4801 fax

CHICAGO

131 South Dearborn Street, Suite 2400
Chicago, IL 60603-5577
312-460-5000
312-460-7000 fax

HOUSTON

700 Louisiana Street, Suite 3700
Houston, TX 77002-2797
713-225-2300
713-225-2340 fax

LOS ANGELES

Century City
One Century Plaza
2029 Century Park East, Suite 3500
Los Angeles, CA 90067-3021
310-277-7200
310-201-5219 fax

Downtown

333 South Hope Street, Suite 3900
Los Angeles, CA 90071-1406
213-270-9600
213-270-9601 fax

NEW YORK

620 Eighth Avenue
New York, NY 10018-1405
212-218-5500
212-218-5526 fax

SACRAMENTO

400 Capitol Mall, Suite 2350
Sacramento, CA 95814-4428
916-448-0159
916-558-4839 fax

SAN FRANCISCO

560 Mission Street, Suite 3100
San Francisco, CA 94105-2930
415-397-2823
415-397-8549 fax

WASHINGTON, D.C.

975 F Street, N.W.
Washington, D.C. 20004-1454
202-463-2400
202-828-5393 fax

BRUSSELS

Boulevard du Souverain 280
1160 Brussels, Belgium
(32) (2) 647 60 25
(32) (2) 640 70 71 fax



Breadth. Depth. Results.

www.seyfarth.com