

Postic & Bates
Estate Planning and Adoption Law

2008 Charitable Giving & Asset Protection Guide

*This manual is provided courtesy
of the law firm of*

POSTIC & BATES

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
2212 SHADOWLAKE DRIVE
OKLAHOMA CITY, OKLAHOMA 73159-7440
405/691-5080 (VOICE)
405/691-6329 (FAX)
www.posticbates.com



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INTRODUCTION

Thank you for considering the law firm of **POSTIC & BATES** for your legal services. Our mission is to provide the highest quality, professional legal services at a reasonable cost. We believe a successful relationship between an attorney and client is founded upon the confidence and trust which comes from effective communication and responsive service.

A study conducted by the American Bar Association Foundation disclosed that the major factors people consider in seeking legal services are:

- the concern shown by the attorney for the client's problem ;
- the attorney's ethics and honesty;
- the attorney's competence in handling the matter for which he or she is hired;
- a fair fee charged by the attorney; and
- the attorney's ability to handle the matter efficiently.

These are the factors addressed in this workbook. At **POSTIC & BATES**, we believe you have a right to know

- information about the attorney you are working with;
- a description of the legal services we will perform; and
- what the legal services will cost you

BEFORE HIRING YOUR ATTORNEY

At **POSTIC & BATES**, we are concerned about your legal needs and are committed to representing your best legal interests. We have limited our practice to those areas in which we have developed a high degree of skill and efficiency so that your time and money are not wasted. We regularly review changes in the law applicable to these areas to insure you are provided with documents and services reflecting the current law. For those services we do not offer, we provide a free referral service. We have investigated numerous attorneys and law firms and will only refer you to those we feel can best meet your needs professionally, ethically and at a reasonable cost.

Our office is located away from the downtown Oklahoma City traffic in the beautiful Shadowlake Office Park located between Southwest 89th and 104th Streets on Pennsylvania Avenue in southwest Oklahoma City **(SEE THE MAP ON THE BACK COVER)**.

Many people feel that they must have done something wrong or have an existing legal problem in order to visit and counsel with an attorney. However, we believe that you benefit most from professional legal services **BEFORE** you have a legal problem. In other words, our practice emphasizes the value of preventative legal services. We offer many low cost services to help you determine your legal needs and ways to meet them.

We look forward to working with you. If you have any questions about the information contained in this workbook, or about any other legal matters, please give us a call or you can e-mail us at www.posticbates.com.

The Purpose of this Book

Most people know they must do their estate planning. They recognize that at some unknown date they will die and, in order to avoid complications with the distribution of their estate, they must plan. However, that planning is usually limited to a Last Will and Testament or Living Trust, Durable Power of Attorney, and Living Will or Advance Directive for Health Care.

Although some people think about estate taxes, they usually do nothing to prevent or reduce them....

ASSET PROTECTION AND CHARITABLE GIVING CAN REDUCE OR ELIMINATE ESTATE TAXES!

Although some people give consideration to the potential catastrophic losses caused by lawsuits and judgments, they do little or nothing to prevent such a loss other than purchase liability insurance....

ASSET PROTECTION CAN LEGALLY PROTECT YOUR NON-EXEMPT ASSETS FROM THE CLAIMS OF CREDITORS!

Although some people are aware of gifting as a means of transferring portions of their estate, they make such gifts without maintaining any control over the property gifted.

ASSET PROTECTION CAN ALLOW YOU TO CONTROL GIFTED ASSETS WHILE STILL REMOVING THEM FROM YOUR ESTATE!

Although most people are aware of the capital gains taxes that accompany the sale of appreciated assets, they simply acknowledge the tax as a "cost of business" without taking action to avoid the tax.

CHARITABLE GIVING CAN RESULT IN THE TOTAL ELIMINATION OF CAPITAL GAINS TAXES ON THE SALE OF ASSETS AND ESTATE TAXES ON RETAINED ASSETS!

Asset protection is not for everyone. The purpose of this book is to help you decide if you need asset protection, evaluate the various types of asset protection and explain the advantages of charitable giving, both to you and to your estate. Please review these materials and then take advantage of our **free, no-obligation consultation** to determine how you can benefit from asset protection and charitable giving.

**FOR GENERAL ESTATE PLANNING INFORMATION,
ASK FOR OUR
2008 ESTATE PLANNING GUIDE**



STEP ONE: CALCULATE YOUR ESTATE

Before you can determine how to protect your estate from creditors, taxes, and other problems, you first must answer this question:

WHAT IS YOUR ESTATE?

By definition, your estate is "the property in which you have a right or interest." Therefore, if you own your **RESIDENCE**, it is a part of your estate. Your **BANK ACCOUNTS** are a part of your estate, as are your **MOTOR VEHICLES, WEARING APPAREL, FURNITURE, APPLIANCES** and anything else in which you own an interest. This can mean **JOINT TENANCY** property, as well as certain property rights which you own, such as an **OPTION TO PURCHASE**, a **CONTRACT FOR DEED**, a **POWER OF APPOINTMENT** (the right to decide where someone else's property goes) and many other rights. Essentially, anything you consider to be of value is a part of your estate. For your own use, please list below the probable value of all property that you own. For each item, list whether you own it (1) **Ind.**, which is individually (no one else is on the title except you); (2) **Joint**, which means that you own it in joint tenancy with others (the title *must* specifically state "in joint tenancy with rights of survivorship" or something similar) or as tenants in common with others (this is what joint ownership is presumed to be, if the words "joint tenancy" are not included in the title or "tenancy by the entireties", which is a form of joint ownership between a husband and wife); (3) **Rev. Trust**, which is ownership in a typical revocable living trust (a trust you can alter, amend, revoke or otherwise change and control); (4) **Irrev. Trust**, which is ownership in an irrevocable trust (a trust which you do not control and which you cannot change); (5) **Corp.**, which is ownership in a corporation, whether a C-corporation or a S-corporation; (6) **LLC**, which is ownership in a limited liability company; or (7) **Part.**, which is ownership in a partnership, whether a general or limited partnership.

Type of Property	Probable Value?	Type of Ownership
Antiques	_____	<input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
Appliances	_____	<input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
Automobiles	_____	<input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
Boats	_____	<input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
Bonds	_____	<input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
Cemetery lots	_____	<input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
Certificates of deposit	_____	<input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
Checking accounts	_____	<input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
Clothing	_____	<input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
Collectibles	_____	<input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
Farm animals	_____	<input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
Farm equipment	_____	<input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
Furniture	_____	<input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
Investments	_____	<input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
IRA Accounts	_____	<input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
Jewelry	_____	<input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
Leases	_____	<input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
Mortgages	_____	<input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
Mutual funds	_____	<input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
Oil and gas rights	_____	<input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
Options	_____	<input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.

Partnership	
Interests	_____ <input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
Pension Benefits	_____ <input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
Powers of	
Appointment	_____ <input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
Promissory notes	_____ <input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
Real estate	_____ <input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
Savings accounts	_____ <input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
Savings bonds	_____ <input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
Stocks	_____ <input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
Tools of your trade (business equipment)	_____ <input type="checkbox"/> Ind. <input type="checkbox"/> Joint <input type="checkbox"/> Rev.Trust <input type="checkbox"/> Irrev. Trust <input type="checkbox"/> Corp. <input type="checkbox"/> LLC <input type="checkbox"/> Part.
TOTAL	\$ _____

In calculating the value of any items held in a corporation, partnership or limited liability company or held as tenants in common with someone, include only the value of your interest in the property. For example, if you have a \$100,000 parcel of land in a partnership, but you are only a 20% partner, include only \$20,000 of value. If you own a \$10,000 stock fund as tenants in common with three other people, include only \$2,500 of value. If the asset is in an irrevocable trust of which you are not a beneficiary, you do not have to include any of the value. However, depending upon how the trust is created, the entire value of the assets in the trust can be included in your estate.

The total of all of the above items should be your **TAXABLE ESTATE**. You can then subtract all debts (this will be all debts owing as of the date of death, minus any insurance payments such as credit life, health insurance, Medicare and Medicaid, and funeral and administration expenses) that you have to arrive at your **NET TAXABLE ESTATE**. Then, proceed to the next section to determine what your estate taxes might be.

STEP TWO:

CALCULATE POSSIBLE FEDERAL & OKLAHOMA ESTATE TAXES



No one likes estate taxes! Since the days of James Madison when our forefathers considered outlawing the inheritance of wealth because it went against the American spirit of each person making his or her own money by working, the government has sought to take a taxing advantage of our passage from this world. There are many contrasting views on the subject. Most people feel they should be able to keep what they acquire during their life. This seems to make sense! However, some people argue that without some sort of transfer tax, most small business owners wouldn't have a chance in the open market. The Rockefellers, Kennedys, Wrigleys and the Gates would own everything! How can future generations compete in the computer industry when Bill Gates has a \$50 billion head start? What's more, children of the wealthy would have no incentive to be productive since they will eventually inherit their parents' wealth. Finally, what about supporting the cost of running the government? Shouldn't someone who has amassed a larger fortune than they will ever use provide part of it to run our schools, infrastructure, etc.? If all of the money ends up with a privileged few, what about the rest of us? Whether you agree or disagree with the tax, it exists and is a fact of life. In 2001, the United States Congress passed the Economic Growth and Tax Relief Reconciliation Act. The Act is designed to phase out the federal estate tax by 2010. However, even in 2009 the maximum estate tax is still 45%! How many of you will pass away before 2010? Also, as stated below, the tax may be *permanently* repealed. Since you cannot say when you will die and since none of us can predict what Congress will do, your estate plan still must involve a careful consideration of estate tax issues.

Both the State of Oklahoma and the federal government assess an estate tax to be paid on the value of an estate. There are certain exemptions from those taxes. The most common exemptions are as follows:

Marital Exemption. All property passing to your spouse at the time of your death is exempt from both federal and state estate taxes. As an example, if you had a \$5 million estate and left it all to your spouse (or if you and your spouse owned all of the estate property in joint tenancy) it would all pass free of federal and state estate taxes. Although this sounds *wonderful*, the drawback to using the unlimited marital deduction is that other exemptions are lost.

Federal Exemption. Prior to January 1, 1998, the laws of the United States granted to each person a tax credit against the federal estate tax of \$192,800.00. This translated into an exemption of \$600,000.00 of property. In other words, if the total value of your estate at the time of death was less than \$600,000.00, you would pay no federal estate tax. As a result of the Taxpayer Relief Act of 1997 and the Economic Growth and Tax Relief Reconciliation Act of 2001, that tax credit is increased as set forth below. In the federal system, you first determine the tax on the entire estate, and then subtract the tax credit you have available. The amount the tax credit represents is now referred to as "the applicable exclusion amount", shown in the middle column below:

<u>Year</u>	<u>Applicable Exclusion</u>	<u>Tax Credit</u>
1998	\$ 625,000	\$ 192,800
1999	650,000	202,050
2000-2001	675,000	220,550
2002-2003	1,000,000	345,800
2004-2005	1,500,000	555,800
2006-2008	2,000,000	780,800
2009	3,500,000	1,455,800

The tax is supposed to be fully repealed effective January 1, 2010. However, the estate tax relief provided in the Economic Growth and Tax Relief Reconciliation Act of 2001 is supposed to automatically expire January 1, 2011, unless further action is taken by Congress. What this means is that, as of January 1, 2011, **we are back to the same tax structure and exemptions we have in 2002!**

Oklahoma Exemption. The laws of the State of Oklahoma grant to each person an exemption of \$2 million. For deaths occurring prior to January 1, 2007, there is no exemption for *collateral* heirs (i.e., brothers, sisters, nieces, nephews, other relatives, friends, etc.). For qualifying decedents, there is an additional exemption for a qualifying family farm or family business. In 1998, the Oklahoma Legislature enacted laws that would have gradually increased the Oklahoma estate tax exemption to equal the federal exemption, had the federal applicable exclusion amount not been increased in 2001. The exemption amount has been increased between 1999 and this year as follows:

1999	\$ 275,000.00
2000	\$ 475,000.00
2001	\$ 675,000.00
2002-2003	\$ 700,000.00
2004	\$ 850,000.00
2005	\$ 950,000.00
2006-2007	\$1,000,000.00
2008	✓ \$2,000,000.00
2009	\$3,000,000.00
2010	Oklahoma estate tax repealed

NOTE: The phase-in of the higher Oklahoma lineal heir exemption is different than the phase-in of the federal exemption. Therefore, it is possible that your estate may avoid federal estate taxes but have to pay the Oklahoma tax.

Charitable Exemption. All property passing to a federally qualified charitable entity (i.e., church, college, hospital, etc.) is exempt from both federal and state estate taxes.

FEDERAL ESTATE TAX

Column A If estate is more than	Column B But not more than	Base Amount of estate tax	Plus tax on amount of estate above Col A amount
0	10,000	18% of estate	
10,000	20,000	1,800	20%
20,000	40,000	3,800	22%
40,000	60,000	8,200	24%
60,000	80,000	13,000	26%
80,000	100,000	18,200	28%
100,000	150,000	23,800	30%
150,000	250,000	38,800	32%
250,000	500,000	70,800	34%
500,000	750,000	155,800	37%
750,000	1,000,000	248,300	39%
1,000,000	1,250,000	345,800	41%
1,250,000	1,500,000	448,300	43%
Over	1,500,000	555,800	45%

OKLAHOMA TAX (FOR LINEAL HEIRS)

Column A If estate is more than	Column B But not more than	Base Amount of estate tax	Plus tax on amount of estate above Col A amount
0	10,000	½% of Column A	
10,000	20,000	50	1%
20,000	40,000	150	1.5%
40,000	60,000	450	2.0%
60,000	100,000	850	2.5%
100,000	250,000	1,850	3.0%
250,000	500,000	6,350	6.5%
500,000	750,000	22,600	7.0%
750,000	1,000,000	40,100	7.5%
1,000,000	3,000,000	58,850	8.0%
3,000,000	5,000,000	218,850	8.5%
5,000,000	10,000,000	388,850	9.0%
Over	10,000,000	838,850	10%

OKLAHOMA TAX (FOR COLLATERAL HEIRS)
(For deaths occurring before January 1, 2007)

Column A If estate is more than	Column B But not more than	Base Amount of estate tax	Plus tax on amount of estate above Col A amount
0	10,000	1% of Column A	
10,000	20,000	100	2%
20,000	40,000	300	3%
40,000	60,000	900	4%
60,000	100,000	1,700	5%
100,000	250,000	3,700	6%
250,000	500,000	12,700	13%
500,000	1,000,000	45,200	14%
Over 1,000,000		115,200	15%

NOTE: If estate taxes apply to both lineal and collateral heirs, determine the tax separately for each. The total of the two amounts is the total estate tax.

**ALL ESTATE TAXES MUST BE PAID
IN FULL
WITHIN NINE MONTHS AFTER DEATH!**

FOR YOUR CONVENIENCE, WE OFFER TO PREPARE FOR YOU AN ESTATE PLANNING PROJECTION TO SHOW YOU HOW YOUR ESTATE MIGHT GROW IN THE FUTURE AND WHAT YOUR POTENTIAL ESTATE TAXES AND COSTS OF ADMINISTRATION MIGHT BE. IN ORDER TO PREPARE THIS PROJECTION, WE NEED FOR YOU TO COMPLETE THE ABOVE INFORMATION AS FULLY AS POSSIBLE.



STEP THREE: EXAMINE RISK OF LOSS FROM CREDITORS

There is nothing wrong with protecting your estate from creditors, *as long as you follow the law*. Realize that you cannot *hide* your assets. In fact, the law in most states is that you cannot hinder, delay or impede your creditors from their attempts to collect on a valid and enforceable claim against you. However, all of those laws assume you are attempting to hinder, delay or impede these creditors **AFTER** the liability arises. There is nothing that says you cannot do so **BEFORE** you are subject to liability. If you are the cause of a serious

traffic accident today, causing potentially millions of dollars of damage to another and tomorrow you retitle all of your real estate, transfer all of your money and give away all of your business interests, most people would find that offensive. It is quite clear you are only transferring the assets to protect them from your creditors, regardless of any other motive you would claim. On the other hand, if you have no such catastrophic liability or potential liability when you retitle real estate, transfer money and gift business interests to family members then later have an accident, you would not be moving assets around, trying to secrete them from creditors. They would already be outside the reach of creditors!

Asset protection involves a great deal of responsibility and risk. Asset protection entities require a lot of maintenance and usually involve additional accounting and tax reporting. However, such additional time and expense is simply part of the cost of the protection afforded. Before you determine if you need asset protection, analyze your property in connection with current exemption laws. Most of us have all the asset protection we need with the Oklahoma exemption laws. Those laws are some of the broadest and most protective in the country and provide that the following assets are exempt:

1. Your home, subject to the following limitations:
In a city, town or village: Up to one acre of land, selected by the owner.
Outside a city, town or village: Not more than 160 acres in one or more parcels, selected by the owner.

NOTE: At least 75% of the total square foot area of the improvements for which a homestead exemption is claimed must be used as the principal residence in order to qualify for the exemption. If more than 25% of the total square foot area of the improvements for which a homestead exemption is claimed is used for business purposes, the homestead exemption amount shall not exceed \$5,000.

2. A manufactured home.
3. All household and kitchen furniture held primarily for personal, family or household use (NOTE: A household computer may be considered an item of household goods, under certain circumstances).

4. Any lot or lots in a cemetery.
5. Implements of husbandry necessary to farm the homestead.
6. Tools, apparatus and books used in any trade or profession for the personal, family or household use of such person or a dependent of such person.
7. The person's interest, not to exceed \$4,000.00, in wearing apparel that is held primarily for personal, family or household use of such person or a dependent of such person.
8. All books, portraits and pictures that are held primarily for the personal, family or household use of such person or a dependent of such person.
9. All professionally prescribed health aids for such person or a dependent of such person.
10. Five milk cows and their calves under six months old that are held primarily for personal, family or household use of such person or a dependent of such person.
11. 100 chickens held primarily for personal, family or household use of such person or a dependent of such person.
12. Two horses and two bridles and two saddles held primarily for personal, family or household use of such person or a dependent of such person.
13. Such person's interest, not to exceed \$7,500.00 in one motor vehicle.
14. One gun held primarily for personal, family or household use of such person or a dependent of such person.
15. Ten hogs held primarily for personal, family or household use of such person or a dependent of such person.
16. Twenty head of sheep held primarily for personal, family or household use of such person or a dependent of such person.
17. All provisions and forage on hand, or growing for home consumption, and for the use of exempt stock for one (1) year.
18. 75% of all current wages or earnings for personal or professional services earned during the last 90 days.
19. Such person's right to receive alimony, support, separate maintenance or child support payments to the extent reasonably necessary for the support of such person and any dependent of such person;
20. Any interest in a retirement plan or arrangement qualified for tax exemption purposes under present or future Acts of Congress.

21. Such person's interest in a claim for personal bodily injury, death or worker's compensation claim, for a net amount not in excess of \$50,000.00.
22. All right, title and interest, including cash value, in and to any life insurance or annuity policy.

Essentially, those items necessary for living are exempt. However, the following items are **NOT** exempt (unless they are part of a qualified retirement plan):

1. Parcels of real property other than your personal residence.
2. Stocks.
3. Bonds.
4. Savings accounts.
5. Boats.
6. Collectibles.
7. Mutual funds.
8. Vehicles in excess of \$7,500.00.
9. Patents and trademarks.
10. General partnership interests.

There are numerous other items not subject to exemption and for the most part, you will not have an exemption in a particular item unless the exemption is specifically provided for by law. Also, in the event of a judgment or claim against you, you must assert your exemption in order to protect the property attempted to be taken. Therefore, knowing your exemptions is important. If you own only exempt assets, you still may want to consider asset protection for another reason: **CONTROL OF ASSETS**.

In the next section, you will learn about the documents that make asset protection work. Through proper formation and funding of these documents, you can legally protect assets from creditors, reduce or eliminate estate taxes, and retain full control of your assets.



STEP FOUR: DETERMINE WHICH ENTITIES ARE RIGHT FOR YOUR USE

The information listed below is merely an overview of some of the more common asset protection entities. Some may not work in your particular situation. One of our estate planning lawyers can analyze your situation and determine the appropriate entity or entities for you.

FAMILY LIMITED LIABILITY COMPANY

A limited liability company is a statutory legal entity which protects each of the participants, known as members, from liability. A *Family* Limited Liability Company (FLLC) is a limited liability company involving only you and your family members, such as children, grandchildren, or those with whom you wish to share your estate. A FLLC closely parallels the Family Limited Partnership (FLP) described below. The major advantage to the FLLC is that the manager of the FLLC, occupying the same position as the general partner of the FLP, has NO personal liability for the business of the FLLC. As a result, many people are selecting the FLLC as their choice for an asset protection document.

You can be the Manager of the FLLC so that you can control the FLLC assets. You can also be a member. Your other family members will also be members. You can use the FLLC to reduce the size of your estate by making gifts to the other members of interests in the FLLC. You do this by signing simple assignments of interests to them. By law, you can make gifts of up to \$12,000 per year per person (up from \$11,000 in 2005!) without triggering a gift tax. You will only make gifts of your interest as a member and you can let your total ownership interest dwindle down to as little as one percent and STILL maintain full control as long as you are the Manager.

Take, for example, a situation where you own a vacation home. Since it is not your primary residence, it is not exempt from creditor claims. Next, assume you suffer a judgment against you for \$100,000.00. The reason for the judgment doesn't matter. It can be from a bad investment, a bad car wreck, professional liability or anything else. The judgment creditor can take your vacation home and sell it if you don't pay the judgment. Even if the creditor does not sell it, YOU cannot sell or mortgage your vacation home until you pay the judgment and obtain a release from the creditor.

Now, assume you place the vacation home into a FLLC prior to the liability which led to the judgment. The vacation home was not owned by you individually -- It is owned by the FLLC. The judgment against you has NO EFFECT on the FLLC because the judgment is against you individually, NOT AGAINST THE LIMITED LIABILITY COMPANY. Therefore, you can still transact business through your FLLC (sell or mortgage the real estate) without interference from your judgment creditor.

The law does grant the creditor certain rights in the FLLC, however. The creditor can get what is known as a charging order against a manager or member who has suffered a judgment. The charging order gives the creditor the right to receive any income actually distributed to the member. However, as the Manager, you can retain the right to NOT distribute income and, therefore, the creditor can be denied any recovery from the FLLC. Also, the law does not allow the creditor to take and sell the FLLC interest without the consent of the Manager. Obviously, you can protect the member's interest by refusing to allow the sale. Thus, a creditor cannot obtain any right to influence the operation of the FLLC.

The FLLC allows you and your family to take advantage of some "discount" planning. For estate and gift tax purposes, as well as for creditor purposes, the value of an interest in a FLLC is considered to be the "market

value" of the interest. "Market value" means what a willing buyer will pay to purchase the interest from a willing seller. With a FLLC, there is usually a lack of marketability, since there are numerous restrictions placed on the ability to sell or encumber the interest. The Internal Revenue Service has even recognized this lack of marketability and has allow taxpayers to discount interest in a FLLC. Therefore, a 1% interest in a \$200,000 FLLC may only be worth \$1,500 or \$1,800 instead of \$2,000. In any event, this is just another benefit to the use of a FLLC in estate planning.

You must keep in mind that creating and establishing a FLLC is more than just filing the entity. There are other documents and actions that must surround these entities in order to create sufficient proof that the entity is valid and justified. We can discuss these actions with you, should you consider a FLLC as a part of your estate plan.

As the result of changes in the law in 1997, you can now have a one-person FLLC. This provides an additional advantage, since you cannot have a one-person partnership. This entity, commonly referred to as "the Tax Nothing" can protect you from liability associated with risky investments, such as real estate, and also protect those investments from your individual creditors.

FAMILY LIMITED PARTNERSHIP

A limited partnership is a written agreement between at least two people. One is the **general partner** who manages the business of the partnership and the other is the **limited partner**. The limited partner cannot manage the business of the partnership. The general partner is WHOLLY liable for any losses caused to the partnership. The limited partner is, much like a passenger on a bus, simply "along for the ride". He or she cannot participate in the management, but he or she can receive distribution of profits and losses from the partnership. A person can be both a general and a limited partner and any number of individuals or entities can be a part of a limited partnership. A **limited partner** of a limited partnership is in much the same position as a **member** of a limited liability company. Both have limited liability and their interests are protected from creditors. Some planners prefer to use the limited partnership entity instead of the limited liability company entity because of the many years of court and tax decisions upholding the use of the limited partnership. The limited liability company is a much more recent entity with not as much legal history. However, due to its similarity to the limited partnership, we believe legal decisions will uphold the use of the limited liability company in the same manner as they support the limited partnership.

THE IRREVOCABLE LIFE INSURANCE TRUST

It is true, as insurance agents say, that life insurance proceeds are not subject to **income** taxes. However, those same insurance proceeds can be subject to **estate** taxes at the time of your death. If you own a policy of insurance on your life, the proceeds are taxable in your estate at the time of your death. In fact, life insurance accounts for 75% of all federal estate tax dollars assessed! If you name your spouse as the beneficiary of your policy, there is no tax on the proceeds since you have an unlimited marital deduction. However, what happens if your spouse dies shortly after you? The proceeds are taxable in your spouse's estate! Furthermore, what if one or more of your beneficiaries are minor children? Legally, they are entitled to their share of the proceeds (after your death) when they reach age eighteen. Do you want to give an 18-year old \$500,000? You can avoid these problems with an irrevocable life insurance trust.

Such a trust, commonly referred to as an **ILIT**, is one you create and in which you place your life insurance. You designate a close friend, advisor or bank as trustee, and designate your spouse and children as beneficiaries. Upon your death, the proceeds from the life insurance policy are paid to your trustee of the ILIT. Since you did not own the policy in your individual capacity, but rather in an irrevocable trust, the proceeds are not taxable in your estate. If your spouse survives you, the trustee can pay the income and as much of the principal as is necessary to your spouse for his or her care. When your spouse dies, the proceeds are then paid to your children, if they are at the age you want them to be when they receive the proceeds. Such a trust allows

you to withhold the money from your heirs for as long as you wish and even skip over a generation and provide that the proceeds are eventually distributed to grandchildren or great-grandchildren or other heirs. With appropriate language, you can protect the policy proceeds from creditors of your heirs as well. The only real disadvantages to this sort of trust are that the trust is irrevocable and the insured person cannot be the trustee or beneficiary of the trust. Please also be advised that any existing life insurance that you transfer to your ILIT is still included in your estate for estate tax purposes if you die within three (3) years of the date the policy is transferred into the trust. Therefore, it is wise to create your ILIT before applying for life insurance that the trust, not you personally, can take title to any new policies.

How do you know if you need an irrevocable life insurance trust? Obviously, it depends upon the amount of life insurance you own. Since the trust will cost at least \$1,000 to create, you want to be in a position where the savings derived from the trust will cover the cost of preparing it. If the total value of your taxable estate, including life insurance proceeds, does not exceed \$2 million, you will not pay federal estate taxes on your life insurance. However, if your taxable estate exceeds \$2 million, the marginal tax rate is 45%. That means \$45.00 of each \$100 over \$2 million is paid to the IRS. Using some math, the federal tax on a \$2,002,222.22 estate is \$999.99. Therefore, if the total value of your estate exceeds these amounts, you may want to consider an irrevocable life insurance trust. Such a trust can be beneficial to your estate if your total life insurance exceeds \$100,000.

CHILDREN'S TRUST

This is a form of a trust that can allow you to continue control of assets after allocation to your children or grandchildren, or can allow you to protect certain assets from your children's creditors, spouses and others. Many times, instead of making a child a limited partner of a FLP or a member of a FLLC, individuals will use a trust for the benefit of that child. The parent can be the trustee of the trust. However, all beneficial ownership is in the name of the child. The Trust can set forth various parameters for the distribution of income and principal from the trust to the child and can even provide for the distribution of the trust assets after the child dies, thereby avoiding redirection of the trust assets by the child's will or trust and avoiding loss of the trust assets in the event of divorce.

WHY NOT USE A CORPORATION?

Many people ask why a corporation seems to be used so infrequently. They know that the corporate form of business has been around for many years and has worked to protect individuals from the liability of their business. This is true and a corporation still provides that liability protection. However, if you are sued personally, your creditor can take the stock that you own in your corporation. When you use corporate stock to reduce your estate by making gifts to children and other beneficiaries, if you give away more than 50% of the stock, you lose control of your corporation. For these reasons and others, a corporation, although still a good form of business entity, is not necessarily the best form to use.

STEP FIVE: GIFTING AWAY YOUR ESTATE



When most people think about gifting they think of cash gifts. They think of writing a check, many times at Christmas or birthdays. As a result, when they are told by an estate planner they have to make annual gifts of **\$12,000*** to reduce the size of their estate, they become uncomfortable and insecure. The most common response is “I don’t have that much cash to give!”

Gifting does not necessarily have to involve cash gifts. In fact, most people who make cash gifts do so with *after-tax* income dollars. In other words, they are using money generated from their income for which they have already paid taxes. As an example, assume you own rental property worth \$100,000. That property generates \$8,000 a year in income. If you simply gift away the \$8,000 of income, you have not reduced the current size of your estate. You may have stopped it from growing (other than the appreciation of the rental property). But you have not reduced it. Since the gifting process described here is one to be used to help reduce the size of your estate, using after-tax income dollars will not achieve your goal. You must gift a portion of the *principal* of your estate.

By creating one of the entities described above, you can transfer some of your assets to the name of the entity. Using the above example, if you put your rental property into an LLC and then gift a \$12,000 interest to each of your four children, you have reduced your estate by \$48,000. If your spouse will likewise join in making gifts, you can reduce your estate by a total of \$96,000. The rental property will still generate the same income (which you can control) and you still have the right to sell or mortgage the property. However at your death, instead of having a \$100,000 asset, your interest in the LLC might be valued at \$30,000 or less.

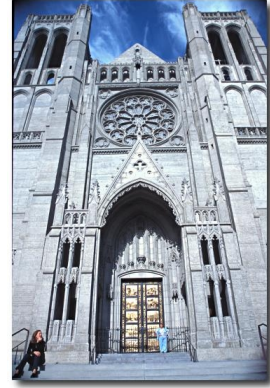
Gifting must be done very carefully. You also have a lifetime gifting limit of \$1 million. In order for it to be effective, a gift must be complete. You cannot simply write a check and not have it cashed. The gift is not complete until the check is cashed! Also, the form of the gift is very important. If you simply deed your child a \$12,000 interest in real property, they and their creditors can control the particular interest in the property and possibly prevent you from selling, encumbering and managing it. If you don’t provide adequate safeguards in making gifts, spouses or other parties can end up owning the interest you gave to your child or other beneficiary, thus defeating one of the purposes of making the gift – sharing your estate. Before you consider gifting, consult with one of our estate planning attorneys. An annual, planned program of gifting can transfer a large amount of wealth to your family while you continually retain control of the wealth transferred. This wealth transfer can avoid estate and gift taxes as well as protect the assets transferred from creditors.

Gifting does not need to be limited to your individual beneficiaries. Many people who have provided adequately for their children and other intended beneficiaries choose to benefit charitable concerns. Charitable giving allows your estate to avoid estate taxes on the portion of your estate gifted to charity and during your lifetime, can provide you with *tremendous* income tax benefits. Charitable giving is described in the next portion of this book.

* This is increased from \$11,000 in prior years due to indexing for inflation

UNDERSTANDING CHARITABLE GIVING

Charitable giving has also been a way of protecting your estate from creditors while, at the same time, providing you with income tax benefits and estate tax benefits and also benefitting some favored charitable entity, such as your church, college, hospital or organization. There are various ways to give your property for charitable purposes. Many of methods **INCREASE** the benefit you can give to the charity and also potentially **INCREASE** the size of your estate. Several will be described here:



INSURANCE TRUST

This method of giving, similar to the Irrevocable Life Insurance Trust discussed above, has become quite popular with colleges and churches. It involves purchasing a life insurance policy on your life, naming your charity as the beneficiary and then donating the life insurance policy to your charity. Annually, you will make a gift of the premium payment on the policy which is income tax deductible to you. When you die, your charity receives the insurance policy proceeds for their use and benefit. With so many different insurance products on the market, you can often purchase a \$10,000 to \$100,000 policy for a relatively small annual investment which will provide a large benefit to your charity. It might be difficult or impossible for you to give your particular charity \$50,000 in one lump sum. However, if you were a fifty year old man, you could purchase a \$50,000 life insurance policy payable to your charity for usually under **\$200 a year!** Obviously, if you are younger, the annual premium is even lower. There are also insurance policies which are fully paid up after only a few years of payments. Many people already give in excess of \$200 a year to some charity. In thirty years, that adds up to \$6,000. For that same investment or possibly less, you can give \$50,000 or more with life insurance. The proceeds of the insurance, since the policy will be owned by the charity, will not be taxable in your estate at the time of your death.

CHARITABLE REMAINDER INTEREST WITH A RESERVED TERM OR LIFE ESTATE

This is a tremendous way to donate interests in real property to your charity now so that the charity will have it when you don't need it any more. Essentially, it allows you to have the property to use for your life (and your spouse's life, if desired) and then give it to your charity. An example might be your house or some other parcel of real estate. You would donate it to your charity now, but you and your spouse would continue to live there and use it for the rest of your lives. When the last of you dies, your charity would own the house or property and could use it for its purposes, or sell it and use the proceeds for its benefit. You would also receive a present income tax deduction for your gift. This sort of gift only works with interests in real property such as your personal residence, a farm, or certain oil and gas interests and works of art. Although your home is already protected from creditors, the other sorts of property are not. Therefore, you gain asset protection by gifting them to the charity now.

CHARITABLE ANNUITY TRUST/CHARITABLE UNITRUST

These two trusts are virtually identical and achieve the same purpose. That purpose is to give a gift to your charity and then receive income or a fixed amount of the income from the gift for your life. They are collectively called Charitable Remainder Trusts. These trusts involve giving you the income earned on the property contributed to the trust for your life (or the life of you and your spouse, if you desire) while giving the principal and any income earned by the trust beyond what you are to receive to your charity. As an

example, let's use a \$50,000 certificate of deposit. You could donate the C.D. to form a charitable annuity trust and determine that you would like to receive a 7% annual income from the trust. The trust would then pay you \$3,500 a year for your life with any income earned above the \$3,500 going to your charity and with the principal of the trust going to the charity after your death. The only difference with the unitrust as opposed to the annuity trust is that with a unitrust, the assets in the trust are regularly revalued to determine what income should be paid to you. As an example, with a charitable unitrust, you could specify a desire to receive a seven percent annual return (which is initially \$3,500). If the trust purchases or owns stocks or other investments which might fluctuate in value, the seven percent which you requested to receive might be worth more or less than \$3,500 a year. If, in the second year, the trust is valued at \$60,000, you would receive \$4,200 for that year (7% of \$60,000). If, in a later year, the trust is valued at \$100,000, you would receive \$7,000 for that year (7% of \$100,000). With the annuity trust you would only receive \$3,500.

Many closely held business owners have found these trusts extremely attractive. A business owner can transfer his or her closely held stock to a charitable remainder trust with the understanding that, at some later time, the corporation will redeem the stock and retire it. The owner is really funding the trust with corporate assets that have been taxed to him already. In addition, he is gaining a dependable lifetime income, immediate income tax savings and the personal satisfaction of providing future support for his or her important charitable organizations. The IRS has made it clear that the redemption of stock by the corporation will not produce adverse tax consequences for the stockholder so long as the charitable remainder trust has no legal obligation to sell the stock to the corporation. The charitable remainder trust is an excellent tool to pass a business from an older generation to a younger generation. Mother and father can make a gift of a small portion of their stock in the family business to their children, then place their remaining stock into a charitable remainder trust. Then, the corporation can redeem the stock held by the charitable trust so that the only remaining stock is the stock owned by the children. As a result, the parents (once the stock is redeemed by the corporation) have successfully passed the value and ownership of their corporation to their children without gift tax consequences, estate taxes or income taxes, and have realized a substantial income tax deduction and income flow.

Here is an actual example of how a charitable remainder unitrust can benefit you and your estate: Mr. & Mrs. Smith, ages 40 and 39, respectively, own their own corporation with stock valued at \$2 million. They were considering selling the stock. However, based on their tax basis, capital gains on the sale would cost them \$420,000 in taxes. As a result, they would not receive \$2 million, but only \$1,580,000 which they could reinvest for their retirement. During their lifetime, they would receive \$9,450,815 in income, based on a return of 8%. At their deaths, their estates would pay \$4,291,346 in estate taxes. Had they not sold the stock prior to their deaths, their estate would have paid a larger estate tax on the stock (since the capital gains taxes had not been deducted) and, if their children wanted to generate cash, they would have needed to sell the stock on their own. Since the estate taxes are due within nine months after death, they may have had needed to sell the stock for a lesser sum just to generate cash necessary to pay the taxes owing. Instead of selling the stock, the Smiths transferred the stock to a charitable remainder unitrust. Based on the \$2 million value of the stock, they received a charitable deduction of \$768,051. The charitable deduction can be applied against up to one-half of their adjusted gross income or carried forward for a total of five years. Since they did not lose the \$420,000 in taxes, they had the entire \$2 million to reinvest. Through the trust, they contracted for a 5% return. However, the assets were invested at 10% thus causing them to grow annually since half of the income was reinvested. As a result, during their lives they received \$14,878,064 instead of the \$9,450,915 generated through the sale described above. (Realize that the trust can sell the stock at any time and NOT pay the capital gains taxes which the Smiths as individuals would have had to pay). Since, by the terms of the trust, the entire principal balance of the trust passes to charity at the death of the Smiths, there would be no estate taxes on the trust as well. In order to protect their family's interest, the Smiths purchased a life insurance policy on them equal to \$6 million. At the death of the Smiths, the entire \$6 million in cash would be paid to their children without estate or income taxes.

As you can see, the only party hurt by this sort of planning is the tax man! The Smiths' estate saved nearly \$5 million in estate taxes while leaving cash assets to their children instead of the headache of trying to sell or run the family business. More importantly for charitable purposes, the \$2 million initially put into the charitable unitrust grew, by the time of their deaths, to **\$20,339,248!** That meant that in the last year of the trust, the Smiths received 5% of that total or more than **\$1 million in income!** *DO NOT IGNORE THE POTENTIAL OF CHARITABLE GIVING!*

CHARITABLE LEAD TRUST

This type of trust is just the opposite of the remainder and annuity trusts and the unitrusts. It is a concept by which you are giving your charity all or a portion of the income from an investment for your life (or for someone else's life) and saving the principal for your family after your death or after a certain period of time. In other words, with the same \$50,000 C.D. discussed above, your charity would receive the \$3,500 a year income and, upon your death, the \$50,000 principal balance would go to your heirs. The tax deduction you receive is not as great as with the other forms of trust, but it is a way to help your charity while not depleting the inheritance you wish to leave to your family AND saving income and/or estate taxes along the way. The charitable lead trust made headlines with the death of Jacqueline Kennedy Onassis. Jackie knew that her children did not really need her sizeable estate at the time of her death. They had their own sizeable estates! She also knew that her estate would have been reduced substantially by estate taxes. Therefore, she created several charitable lead trusts to benefit her many charitable interests. Through income payments over a period of years, she was able to reduce her estate taxes tremendously because the present value of the income flow to the charities is deductible from her estate for estate tax purposes. Once the income period for the trusts expires, the remaining principal will then pass to her surviving daughter and grandchildren.

CHARITABLE GIFT ANNUITIES

This is a wonderful way of gifting that is quite simple and benefits both you and your selected charity. It involves making a gift and then receiving a fixed income based on the value of the gift. The IRS has established a table based on age and that table establishes the interest income rate the charitable organization must pay you on your gift. The gift can be in the form of cash, C.D.s, stocks, real estate or personal property. Realize that it is more beneficial to gift appreciated assets to the charitable organization and allow it to sell them because the charity can do so without incurring a capital gains tax. On the other hand, if you sell the asset and then use the proceeds to fund a charitable gift annuity, you will first have to pay capital gains taxes on the gain realized. Consider what you gain from a typical certificate of deposit (CD). The best rates existing now are around 5%. For anyone age 44 or older who creates a charitable gift annuity, you can obtain a 5% return annually **FOR LIFE!** You do not have to deposit a large sum. The gift annuity will not "mature" like a CD and you do not have to risk giving up your good interest rate. Rather, you receive the same rate until you (or the person who is the measuring life for the gift annuity) die. Clearly, if you are age 80 or older, you can realize a tremendous increase in income with a guaranteed interest rate of 8%. As with any other charitable form of giving, the only drawback is that you cannot leave the annuity principal to your family. However, if you generate a greater income flow for the remainder of your life (say, gifting a 4% CD and receiving 7% on a gift annuity), you will increase your income and be able to keep from spending your principal for your maintenance. In addition, you provide a tremendous benefit to a charity of your choice. Caution should be exercised as well because a charitable gift annuity is NOT a trust and it is NOT guaranteed by the FDIC. It is simply a contract with your intended charitable organization. The charitable organization promises to pay you the annuity amount on an annual basis. Therefore, choose your charitable organization carefully. Make sure they have the ability to pay you the income flow for the rest of your life!

SINGLE LIFE GIFT ANNUITY RATES

Age	Rate	Age	Rate	Age	Rate	Age	Rate
0 - 1	3.7%	44 - 45	5.0%	68	6.3%	81	8.3%
2 - 5	3.8	46	5.1	69	6.4	82	8.5
6 - 12	3.9	47 - 48	5.2	70	6.5	83	8.8
13 - 20	4.0	49 - 50	5.3	71	6.6	84	9.2
21 - 25	4.1	51 - 52	5.4	72	6.7	85	9.5
26 - 28	4.2	53 - 55	5.5	73	6.8	86	9.9
29 - 31	4.3	56 - 57	5.6	74	6.9	87	10.2
32 - 34	4.4	58 - 60	5.7	75	7.1	88	10.6
35 - 36	4.5	61	5.8	76	7.2	89	11.0
37 - 38	4.6	62 - 63	5.9	77	7.4	90 +	11.3
39 - 40	4.7	64 - 65	6.0	78	7.6		
41 - 42	4.8	66	6.1	79	7.8		
43	4.9	67	6.2	80	8.0		

TWO LIFE GIFT ANNUITY RATES

Younger Age	Older Age	Rate	Younger Age	Older Age	Rate
0 - 1	All	3.5%	79	89 - 90	7.4
2 - 5	All	3.6	79	91 - 93	7.5
6 - 12	All	3.7	79	94+	7.6
13 - 22	All	3.8	80	80	6.9
23 - 28	All	3.9	80	81	7.0
29 - 32	All	4.0	80	82	7.1
33 - 36	All	4.1	80	83 - 84	7.2
37 - 39	All	4.2	80	85	7.3
40 - 42	All	4.3	80	86 - 87	7.4
43 - 44	All	4.4	80	88 - 89	7.5
Younger Age	Older Age	Rate	Younger Age	Older Age	Rate

45 - 46	All	4.5%	80	90 - 91	7.6%
47 - 48	All	4.6	80	92 - 94	7.7
49 - 50	All	4.7	80	95+	7.8
51	51+	4.8	81	81	7.1
52 - 53	All	4.9	81	82 - 83	7.2
54 - 55	All	5.0	81	84	7.3
56	56 - 57	5.1	81	85	7.4
56	58+	5.2	81	86 - 87	7.5
57	57 - 58	5.2	81	88	7.6
57	59+	5.3	81	89 - 90	7.7
58	58 - 63	5.3	81	91 - 92	7.8
58	64+	5.4	81	93 - 94	7.9
59	59 - 61	5.4	81	95+	8.0
59	62+	5.5	82	82 - 83	7.3
60	60	5.4	82	84	7.4
60	61+	5.5	82	85	7.5
61	61 - 65	5.5	82	86	7.6
61	66+	5.6	82	87	7.7
62	62 - 64	5.5	82	88 - 89	7.8
62	65 - 70	5.6	82	90	7.9
62	71+	5.7	82	91 - 92	8.0
63	63	5.5	82	93 - 94	8.1
63	64 - 68	5.6	82	95+	8.2
63	69+	5.7	83	83	7.4
64	64 - 66	5.6	83	84	7.5
64	67 - 72	5.7	83	85	7.6
64	73+	5.8	83	86	7.7
65	65	5.6	83	87	7.8
65	66 - 70	5.7	83	88	7.9
Younger Age	Older Age	Rate	Younger Age	Older Age	Rate

65	71+	5.8%	83	89	8.0%
66	66 - 68	5.7	83	90 - 91	8.1
66	69 - 73	5.8	83	92	8.2
66	74+	5.9	83	93 - 94	8.3
67	67	5.7	83	95+	8.4
67	68 - 71	5.8	84	84	7.6
67	72 - 76	5.9	84	85	7.8
67	77+	6.0	84	86	7.9
68	68 - 70	5.8	84	87	8.0
68	71 - 74	5.9	84	88 - 89	8.1
68	75 - 78	6.0	84	90	8.2
68	70+	6.1	84	91	8.3
69	69	5.8	84	92	8.4
69	70 - 72	5.9	84	93 - 94	8.5
69	73 - 76	6.0	84	95+	8.6
69	77 - 80	6.1	85	85	7.9
69	81+	6.2	85	86	8.0
70	70 - 71	5.9	85	87	8.1
70	72 - 74	6.0	85	88	8.2
70	75 - 77	6.1	85	89	8.3
70	78 - 82	6.2	85	90	8.4
70	83+	6.3	85	91	8.5
71	71 - 73	6.0	85	92	8.6
71	74 - 76	6.1	85	93 - 94	8.7
71	77 - 79	6.2	85	95+	8.8
71	80 - 83	6.3	86	86	8.1
71	84+	6.4	86	87	8.2
72	72	6.0	86	88	8.4
72	73 - 74	6.1	86	89	8.5
Younger Age	Older Age	Rate	Younger Age	Older Age	Rate

72	75 - 77	6.2%	86	90	8.6%
72	78 - 80	6.3	86	91	8.7
72	81 - 84	6.4	86	92	8.8
72	85+	6.5	86	93	8.9
73	73	6.1	86	94	9.0
73	74 - 75	6.2	86	95+	9.1
73	76 - 78	6.3	87	87	8.4
73	79 - 81	6.4	87	88	8.5
73	82 - 84	6.5	87	89	8.6
73	85+	6.6	87	90	8.8
74	74	6.2	87	91	8.9
74	75 - 76	6.3	87	92	9.0
74	77 - 79	6.4	87	93	9.1
74	80 - 81	6.5	87	94	9.2
74	82 - 84	6.6	87	95+	9.3
74	85+	6.7	88	88	8.7
75	75	6.3	88	89	8.8
75	76 - 77	6.4	88	90	8.9
75	78 - 79	6.5	88	91	9.1
75	80 - 82	6.6	88	92	9.2
75	83 - 85	6.7	88	93	9.3
75	86 - 88	6.8	88	94	9.4
75	89+	6.9	88	95+	9.5
76	76	6.4	89	89	9.0
76	77 - 78	6.5	89	90	9.1
76	79 - 80	6.6	89	91	9.3
76	81 - 82	6.7	89	92	9.4
76	83 - 84	6.8	89	93	9.5
76	85 - 87	6.9	89	94	9.7
Younger Age	Older Age	Rate	Younger Age	Older Age	Rate

76	88+	7.0%	89	95+	9.8%
77	77	6.5	90	90	9.3
77	78 - 79	6.6	90	91	9.5
77	80	6.7	90	92	9.6
77	81 - 82	6.8	90	93	9.8
77	83 - 84	6.9	90	94	9.9
77	85 - 87	7.0	90	95+	10.1
77	88 - 90	7.1	91	91	9.6
77	91+	7.2	91	92	9.8
78	78 - 79	6.7	91	93	10.0
78	80 - 81	6.8	91	94	10.1
78	82	6.9	91	95+	10.3
78	83 - 84	7.0	92	92	10.0
78	85 - 86	7.1	92	93	10.2
78	87 - 89	7.2	92	94	10.4
78	90 - 92	7.3	92	95+	10.6
78	93+	7.4	93	93	10.4
79	79	6.8	93	94	10.6
79	80 - 81	6.9	93	95+	10.8
79	82	7.0	94	94	10.8
79	83 - 84	7.1	94	95+	11.0
79	85 - 86	7.2	95 +	95+	11.1
79	87 - 88	7.3			

NOTES:

1. The rates are for ages at the nearest birthday, whether before or after.
2. For immediate gift annuities, these rates will result in a charitable deduction of more than 10% if the CMFR is 4.0% or higher, whatever the payment frequency. If the CMFR is less than 4.0%, the deduction will be less than 10% when annuitants are below certain ages. (The CMFR, which stands for Charitable Midterm Federal Rate, is an interest rate established by the IRS. Also referred to as the 7520 rate for the section of the tax code from which it is derived, this rate is used in a formula by the IRS when calculating charitable deductions. The CMFR for December 2006 is 5.8%)
3. For deferred gift annuities with longer deferral periods, the rates may not pass the 10% test when the CMFR is low.
4. To avoid adverse tax consequences, the charity should reduce the gift annuity rate to whatever level is necessary to generate a charitable deduction in excess of 10%



COSTS OF ESTATE PLANNING

WE ALWAYS OFFER A FREE, NO-OBLIGATION CONSULTATION ON ESTATE PLANNING

Fees for estate planning services vary. Depending upon what must be done, depending upon the size of your estate, depending upon the attorney or financial planner used, fees can vary substantially. For comparison, here are the fees presently being charged at POSTIC & BATES as of January 1, 2008:

1. **Fully Funded Living Trust**

Separate trusts for a married couple	\$2,000
Joint trust for a married couple	\$1,500
Trust for a single person	\$1,200

The fee includes all consultation, document preparation, review and explanation as well as execution in our office. **There will be an additional fee for signings occurring outside of our office.** The fee does not include any filing or transfer fees for transferring property to the trust(s). In Oklahoma, deed filing fees are \$13.00 for the first page of a document and \$2.00 for each additional page. Generally, the costs per county for filing a deed and memorandum of trust are a total of \$34.00 to \$36.00. The fee also includes a complimentary last will and testament, a durable power of attorney, a nomination of guardian, an advance directive for health care, and the preparation of all deeds necessary to transfer property to your trust. The attorney's fee must be paid in advance. We will bill you for the filing fees at the time your documents are signed. If additional fees are incurred in filing your transfer documents, we will bill them to you.

2. **Last Will and Testament (simple)** \$300.00

The fee includes all consultation, document preparation, review and explanation, and execution in our office. **There is an additional charge for execution outside of our office.** There are additional charges for inclusion of guardianship language for minor children (generally around \$25.00), and for trust provisions (fees vary up to \$500.00). Additionally, equipment is available for videotaping the execution of the document in the event questions may be raised regarding the competency of the testator. The fees for this document are payable in advance.

3. **General Durable Power of Attorney** \$250.00

Typically, we recommend two, separate kinds of Durable Powers of Attorney – one for *medical* purposes and one for *business* purposes. Both of these documents are available for this one fee.

4. **Advance Directive for Health Care** \$50.00

This document is provided free of charge to all of our estate planning clients who pay for any other estate planning services.

5. **Probate of an Estate** \$2,500.00 minimum

The fees for probate vary, depending upon the extent of the estate and the work to be done. The minimum fee does not include filing and publication fees, which generally run around \$250 to \$300. A \$1,500 to \$2,000 down payment is usually required to retain this office to handle a probate case. In some instances, dealing with larger estates or anticipated contested matters, a larger fee down payment may be required and a larger fee may be charged. Usually, our office also prepares the Oklahoma estate tax return. The balance of the fee will usually be billed to you at the time of the completion of the final account or petition for distribution. However, additional fees can be billed to you during the progress of an unusually long or difficult probate case. In addition to the fees for handling the probate itself, the following fees are charged for preparation of various tax documents associated with an estate:

Federal estate tax return	\$400.00
United States fiduciary income tax return	350.00

6. **Limited Partnership or Limited Liability Company** \$1,000.00

The fee, which is payable in advance, includes all consultation, document preparation, review and explanation, as well as execution in our office. It also includes the \$100.00 statutory filing fee to the Secretary of State. If your estate plan will involve more than one limited partnership, the fee for additional limited partnerships can be reduced, depending upon the nature and purpose of the additional limited partnerships.

7. **Irrevocable Life Insurance Trust** \$1,000.00

The fee, which is payable in advance, includes all consultation, document preparation, review and explanation and execution in our office. We will also assist in the transfer of property from your individual names to the name of the trust.

8. **Special Needs Trust** \$1,500.00

The fee, which is payable in advance, includes all consultation, document preparation, review and explanation and execution in our office. We will also assist in the transfer of property from your individual names to the name of the trust and assist you in preparing your own Letter of Intent to assist your successor trustees in caring for your disabled relative.

9. **Corporation** \$1,000.00

This is a "turn key" price for a corporation, payable in advance. The fee includes all consultation, document preparation, review and explanation, and execution in our office. It also includes payment of the \$50.00 statutory filing fee with the Secretary of State. We also provide you with a corporate minute book, shareholders' ledger, and pre-printed stock certificates. We will prepare the certificate of incorporation, by-laws, and initial minutes to properly form your corporation under Oklahoma law.

10. **Personal Residence Trust** \$500.00

This fee is for a revocable trust to be used *solely* for holding your personal residence and is useful for those persons who have designated beneficiaries for their other assets, but still own their home. The fee does not include filing fees for a deed and memorandum of trust, which generally runs \$34.00.

11. **Charitable Remainder Trust** \$2,500.00
This fee includes all consultation, document preparation, review, explanation, and consultation related to the creation of an irrevocable charitable remainder trust. Additional fees may be involved in transferring or redesignating assets to the trust.

12. **Living Trust and Irrevocable Insurance Trust** \$2,000.00
This fee includes the preparation of both a revocable living trust (and its associated documents), as outlined in item 1, above, and an irrevocable life insurance trust, as outlined in item 7, above. This reduced fee is only available for those clients wishing to have these documents prepared at the same time. **The fee to prepare these same documents for a single person is \$1,500.00.**

For additional information on all aspects of estate planning and asset protection, contact:



2212 SHADOWLAKE

DRIVE

OKLAHOMA CITY, OKLAHOMA 73159-7440

405/691-5080

405/691-6329 (FAX)

www.posticbates.com

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