

\$10⁹⁵

***How To Plan
Your Estate
In Florida***

All About
**WILLS & TRUSTS
TAXES & ESTATE PLANNING**

by
CRAIG DONOFF,
Tax Attorney

LEADING FLORIDA ATTORNEYS

Florida's Most Respected Legal Counsel As Selected By Their Peers

September 4, 1997

Craig Donoff, Esq.
Law Office of Craig Donoff, P.A.
18305 Biscayne Boulevard, Suite 300
Aventura, FL 33160

Dear Mr. Donoff:

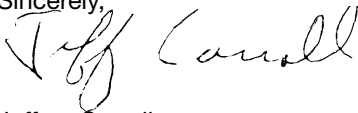
The purpose of this letter is to inform you of your selection as a Leading Florida Attorney in the area of Trusts & Estates Law and to describe the research process that led to your selection.

American Research Corporation recently completed an extensive survey in Florida to identify the attorneys most highly regarded by their peers (you may have been a participant in the survey process). You received numerous independent nominations from your peers in The Florida Bar as an outstanding practitioner in the area of Trusts & Estate Planning. Your selection was the result of those nominations, a review of nominated attorneys by our Advisory Board, and verification of your good standing with The Florida Bar.

Fewer than 5% of the attorneys licensed to practice in Florida have been selected by their peers as a Leading Florida Attorney.

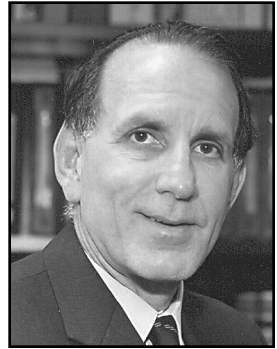
The research was conducted to create a "short list" of outstanding attorneys recognized by their peers as Leading Florida Attorneys. This list provides an excellent resource for the general public and business people seeking legal services. It also is useful to attorneys and other professionals seeking a credible resource from which to make referrals. Information about Leading Florida Attorneys can be found in our many publications as well as on our web site: www.lawlead.com.

Sincerely,



Jeffrey Carroll
Executive Vice President (800) 328-7216

CRAIG DONOFF



Craig Donoff is a tax and estate planning attorney with offices in Boca Raton and Aventura. Mr. Donoff has been practicing law in south Florida since 1974.

Mr. Donoff was born and raised in Miami, Florida. He graduated from the University of Maryland with a Bachelor of Arts degree. He is a graduate of American University, Washington College of Law, Washington, D.C., and holds two Master of Laws (L.L.M.) degrees in Estate Planning and in Taxation from the University of Miami School of Law.

Mr. Donoff is a former columnist for the Fort Lauderdale, Sun-Sentinel on Estate Planning and previously had written a monthly column for Senior World newspaper on Taxes and Estate Planning. He is a Past President of the Greater Boca Raton Estate Planning Council and was on the Board of Directors of the TransFlorida Bank of Palm Beach County.

Mr. Donoff has also been a frequent lecturer for the Florida Bar and Florida Institute of Certified Public Accountants in the areas of Estate Planning, Post Mortem Estate Planning, Corporate Tax and Business Planning, and Tax Planning for Real Estate Transactions.

Mr. Donoff wrote the best selling book “Avoiding Probate – a Lawyers View,” which is being sold throughout the United States.

TABLE OF CONTENTS

Objective Of This Booklet.....	4
Just What Is Estate Planning?.....	4
Why Should I Make A Will?	5
But I Do Not Know Right Now What Property I May Own When I Die. How Do I Make A Will?.....	6
Why Should A Lawyer Prepare My Will?	6
Why Is The “Legal Language” Necessary?	6
Suppose My Spouse And I Own Everything Jointly, Do I Still Need A Will?.....	6
Is There Any Amount That My Estate Can Be And Not Have To Pass Through A Full Probate?	7
Is It True That Probate Is A Matter Of Open Public Record?.....	7
Who Can Be My Personal Representative In Florida?.....	7
I Have A Will, Which Has Been Around For Many Years, But It Says Basically What I Want It To Say. How Often Should I Change It, If At All?	7
What Can I Do To Plan My Will Before My Appointment With An Attorney?	8
Who Should I Name As Personal Representative (Executor) Or Trustee Of My Estate? How Should I Select The Personal Representative Or Trustee Of My Estate?.....	8
What Does My Personal Representative Have To Do?.....	9
I Have Heard The Terms “Probate Estate” And “Gross Estate.” Do They Mean The Same Thing?.....	9
Does My Estate Have To Pay Tax On My Life Insurance?	10
Florida Doesn’t Have A True Estate Tax But I Have Heard Other States Do. What States Do And How High Can The Estate Brackets Get To?.....	10
How Do I Find A Good Estate Planning Lawyer?	10
Should My Will Contain A Trust And What Can It Do For Me?	10
How Do I Know If I Have A “Testamentary” Trust?	10
One Last Time – What Is The Difference Between A “Testamentary” Trust And A Revocable Living Trust?”	11
Does My Will Avoid Probate?	11
Will My Safe Deposit Box Be Frozen At My Death Until A Tax Auditor Inventories It? ...	11
Differences between Wills and Trusts.....	12
How Is Jointly Owned Property Taxed In An Estate?	13
What Is Marital Deduction?.....	13
The Living Trust And How To Avoid Probate - What Is A Revocable Living Trust And What Are Its Advantages?.....	13
What Is A Revocable Living Trust?.....	14
How Can The Revocable Living Trust Help Me If I Become ill Or Disabled?	14
What Factors Decide If I Should Have A Will Or A Revocable Living Trust?	15
I Realize That Living Trusts Cost More Than Wills; But Do I Have To Pay Another Big Fee If I Want To Change My Trust?	15
Can I Be The Trustee Of My Own Living Revocable Trust?.....	15

If I Create A Living Revocable Trust And Place My Home In It To Avoid Probate, Will I Still Get The Homestead Tax Deduction And The Once In A Lifetime \$125,000 Federal Income Tax Exclusion For Taxpayers Over Age 55?.....15

If I, John Doe, Set Up A Revocable Living Trust On January 10, 1986, How Will My Assets Be Re-registered In The Trust ?.....15

When Should I Review My Will Or Trust?16

Why Do Some Attorneys Discourage The Use Of The Revocable Living Trust?16

Why Should I Want To Avoid Probate?16

How Does A Revocable Living Trust Avoid Probate?16

What Is A “Joint” Trust And How Is It Used?17

How A Living Trust Compares To Alternate Estate Planning “Tools”17

Checklist Of Required Information For Estate Planning.....18

The Advantages Of Having A Will19

TRUSTS

Non Tax Reasons To The Use Of A Testamentary Trust21

Advantages Of Trusts.....22

Determining A Domicile23

Checklist For Use In Determining Domicile.....24

Duties Of Personal Representative And Trustees25

Florida Statute 709.08.....26

Advantages And Disadvantages Of Joint Ownership.....27

Disadvantages.....27

Joint Ownership: The Poor Man’s Will28

Your Estate And The Tax.....30

Appreciated Assets.....30

Joint Bank Accounts.....30

Simplifying The Complex Language Of Wills And Trusts – Definitions32

What Happens To Your Estate At Death - Illustration36

What Does It Cost To Probate An Estate?36

Test Your Knowledge Of Estate Planning37

Answers to Questions.....38

Providing Liquidity for Estate Tax and Settlement Costs40

Survivorship (Second-To-Die) Life Insurance41

What Happens After Death.....42

Estates of Famous People.....42

Case Study.....43

Problem43

Solution.....44

Asset Inventory Worksheet46

Common Questions on the New Estate Law.....48

Questions From Clients.....49

What Does It All Mean?.....49

Living Trusts - Illustration50

Notes51

Background52

OBJECTIVE OF THIS BOOKLET

This material was prepared to answer many of the questions you may have about the proper planning of your estates in Florida. Although it is by no means a thorough treatment of all things you should know, it will give you an opportunity to review some of the more important things you may need to consider. For ease of analysis, these matters are introduced in question and answer form.

JUST WHAT IS ESTATE PLANNING?

Estate planning is the process by which the client plans the accumulation, management, conservation and disposition of his estate so that he and his beneficiaries will derive the maximum benefit during his lifetime and after his death. This process requires coordination and integration of the client's personal, financial and business affairs. Estate planning is more than tax planning. While tax planning is essential in the larger estates, it should not be the sole purpose of estate planning. If the estate plan meets the needs of the client and the client's family and at the same time provides for tax savings, this is good. But an estate plan designed to save taxes, but not in the best interests of the client and the client's family, should be avoided.

The accumulation and retention of wealth, if not more difficult today, is certainly more complicated than it was in former years. During lifetime, a person's ability to save for his benefit and to provide for the family after death is substantially reduced by high income taxes and, at death, by inheritance and estate taxes. Today, taxpayers are more tax-conscious and seek ways to avoid paying more taxes than they are legally compelled to pay.

The importance of estate planning gains impetus with any increase in the estate taxes. Estate planning, with proper counseling, can minimize current and future taxes and preserve estates while satisfying the personal needs and desires of the testator and his or her beneficiaries.

The person who has accumulated wealth through their own efforts, or by gift or inheritance, is entitled to competent, honest, impartial advice on all questions pertaining to the conservation of, making gifts of, and transmittal of their wealth at the time of their death. All required documents should be drafted by a qualified attorney who has made an impartial study of the problems and needs of the individual. Such documents should be prepared only after a full and complete study of the needs of the client and his family, and with the view of coordinating such documents with all other instruments that may in any way affect the management of the client's wealth during his or her lifetime, the gifts to be made, and the transmittal of the wealth at the death of the client.

The critical act in estate planning is the execution of a Will. Many people occasionally think how they want their assets distributed, but may never have a Will drawn and signed. Others place their assets in joint ownership, believing this will solve the distribution problem and thus eliminate the need for a Will. Still others have a Will drawn and then file it away some place where it is forgotten for many years.

Estate planning is a continuing process of review of one's situation, both with respect to family and assets, and of periodic decisions on distribution of assets during life and at death to relatives and charities.

WHY SHOULD I MAKE A WILL?

If you do not make a Will to name your beneficiaries, the laws of the state will decide who gets your property, who administers your estate, and who becomes the guardian of your children. If you are married, part of your property may go to your children or other relatives instead of all to your spouse as you might expect. You can create special trusts for minors or others which contain special provisions providing for education, health, or emergencies. If tax planning is desired, special clauses can be inserted prepared especially for your estate, which can substantially reduce estate taxes. If you do not have family or friends who you desire to leave property to, charitable gifts can be made through use of the Will.