

## Trusts and Estates Law

Flaster Greenberg attorneys recognize that successful estate plans should be structured to accomplish preservation of a lifetime of assets, through careful strategies that minimize tax consequences. But, in addition, we are responsive to the sensitivities and personal issues inherent within the family dynamic. We pride ourselves on thoughtful, careful planning, and consideration of the big picture that takes into account the personal needs, goals and values of our clients, as well as the financial element.

Plus, our attorneys remain continually updated on new and changing tax laws and regulations, and take advantage of all available techniques to reduce the impact of federal and state estate, gift, generation-skipping and inheritance taxes, which together can claim more than half of an individual's taxable estate.

### Administration of Trusts & Estates

We advise executors and trustees on the proper and most tax-efficient means of administering probate and non-probate estates and trusts including the following:

- **Fiduciary Representation in New Jersey and Pennsylvania**

Our attorneys advise individual and corporate fiduciaries in both New Jersey and Pennsylvania as to the complexities of estate and trust administrations. We aid fiduciaries in collecting assets, paying debts, and ultimately distributing the assets of an estate or trust to the beneficiaries. Through the use of nonjudicial settlement agreements, our attorneys devise creative solutions to facilitate the administration of estates and trusts in an effort to avoid court intervention when possible. Nonetheless, if court intervention is necessary, our attorneys have decades of experience practicing before the Surrogate's Court, the Register of Wills, the Superior Court of New Jersey and the Orphans' Courts in Pennsylvania.

- **Post-Mortem Tax Planning**

Estate planning does not always end when someone dies. Our attorneys utilize post-mortem estate planning techniques to further clients' and their families' tax and non-tax goals even after death. Through the use of disclaimers, our attorneys help fiduciaries and beneficiaries minimize estate, inheritance, and income taxes, while at the same time, creating generational planning opportunities.

### Attorneys

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■ **Taxes**

A cornerstone of our practice focuses on the preparation of federal and state tax returns for trusts and estates. We specialize in preparing Federal Estate Tax Returns, New Jersey Estate and Inheritance Tax Returns, Pennsylvania Inheritance Tax Returns, and federal and state fiduciary income tax returns. Throughout our decades of experience, we have learned to prepare these tax returns to minimize audit exposure in a cost efficient manner.

■ **Audit**

When a client's estate, inheritance, or fiduciary income tax return is audited, we advocate for our clients to ensure that the taxing authorities properly apply the tax laws. Because of our extensive knowledge in estate and trust taxation, we frequently achieve settlements in tax controversies with the Internal Revenue Service, the New Jersey Division of Taxation, and the Pennsylvania Department of Revenue during the audit process. If settlement is not possible, our attorneys are skilled in pursuing judicial remedies to protect our clients' interests.

■ **Distributions**

The termination of an estate or trust is often the most important aspect of an estate or trust administration. We guide our fiduciary and beneficiary clients through both the informal and formal termination process of an estate or trust. Whether through refunding bonds, releases, nonjudicial settlement agreements, informal accountings, or formal audits, we advise fiduciaries on how best to terminate an estate or trust and how to handle challenges from beneficiaries in a cost efficient manner, and we advise beneficiaries on how to protect their beneficial interests during a trust or estate termination.

## Estate Planning

Our trust and estate attorneys have decades of experience constructing estate plans. We recognize that estate planning is more than drafting a will or trust. The growing complexity of tax laws and diversity in assets makes sophisticated estate planning more important than ever. Our integrated approach to personal planning blends the most advantageous methods of wealth preservation with appropriate estate planning techniques to produce an intelligent, cohesive and dynamic estate plan that is individualized to each client's goals and wishes and carefully integrated with business and family realities. We are experienced with the specialized issues which arise in planning for closely held and professional businesses, non-traditional family situations, non-US citizenship and international assets. We are sensitive to the complicated nature of the process and strive to ensure that each client understands the elements of each estate plan.

■ **Drafting Wills, Trusts and Other Estate Planning Documents**

Our estate and trust attorneys are well versed in drafting wills, trusts, and related estate planning documents tailor-made for our clients. Our experience drafting wills and creating and maintaining all types of lifetime and testamentary trusts ensures that each document is customized to achieve each client's goals of transferring assets to the desired beneficiaries while reducing the cost of transfer taxes imposed by the federal and state governments. We also utilize Durable General Powers of Attorney, Medical Powers of Attorney and Living Wills to provide our clients with estate plans that are designed to handle unexpected lifetime contingencies.

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▪ **Lifetime Gift and Tax Planning**

Flaster Greenberg attorneys assess clients' overall estates to determine whether lifetime gifts may be beneficial in the context of their broader goals and objectives. Utilizing lifetime gifting strategies may accomplish positive effects such as minimizing and/or eliminating a taxable estate, protecting beneficiaries from threats of divorce or financial security and achieving philanthropic goals. Whether a client's gifting intentions are charitable or closer to home, we recognize the importance of incorporating lifetime gifting techniques into an estate plan for our clients. We listen to our client's desires and develop a gifting plan that will achieve the most advantageous results to meet the client's tax and personal gifting goals. We may use such techniques as gift-splitting, qualified personal residence trusts (QPRTs), grantor-retained annuity trusts (GRATs), sales to intentionally defective grantor trusts (IDGTs), irrevocable life insurance trusts (ILITs), Crummey trusts, family limited partnerships and limited liability companies, private charitable foundations, charitable remainder trusts (CRTs), charitable lead trusts (CLTs), as well as other tools appropriate for each estate plan.

▪ **Business Succession Planning**

Developing an integrated estate plan that factors in the transfer of a business interest is often a sensitive and frequently emotional matter that requires experience and delicacy. Flaster Greenberg's attorneys are experienced in working with their clients to develop business succession plans that respect the needs and desires of the stakeholders and family members involved, while resolving differences that may arise. We work with our clients to meet their individual needs in preparing buy-sell agreements, shareholder agreements, deferred compensation agreements, and other agreements or plans to transfer interests during life or at death. Our integrated approach is especially effective when crafting such estate plans, using financial and tax strategies prepared in the broader context, to align with personal and family realities and related sensitive issues such as equalization of assets among beneficiaries, minimization of estate taxes and liquidity for payment of estate taxes to avoid the sale of the business.

▪ **Asset Protection**

Federal and state estate, gift, generation skipping and inheritance taxes are not the only threat to personal wealth. Other threats to assets include:

- Liability from serving as an officer, director or other fiduciary
- Liability as guarantor for the debts of another
- Suits by former business partners
- Personal injury damages suffered by a person on or around your property or vehicle
- Liability arising from professional malpractice or personal malfeasance
- Unforeseen debts or liabilities
- Divorce

Insurance alone cannot protect adequately against all threats in all cases. We work with our clients to protect their assets using limited liability companies, trusts and other asset protection planning techniques.

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■ **Coordination of Retirement Plans and Life Insurance**

With an increasing amount of assets held in qualified retirement plan accounts, IRAs, annuities and life insurance policies, coordination of the transfer of these benefits into an estate plan is increasingly important. Our estate and trust attorneys are well versed in the drafting of beneficiary designations for life insurance policies, qualified retirement plans and IRAs that will integrate the transfer of those assets into the estate planning process in a tax-efficient manner.

### **Guardianship and Conservatorships**

Facing the issues involved with an incapacitated loved one, whether it be an elderly parent, a disabled child or other family member with physical or mental health issues can be overwhelming and full of uncertainty. The creation of a guardianship or conservatorship is often necessary to provide a disabled or incapacitated family member with appropriate care, asset management or to carry out the goals of an estate plan.

Our estate and trust attorneys are experienced in representing our clients before courts to establish guardianships or conservatorships for a family member who is in need of assistance or incapable of making decisions, as well as challenging and dissolving such arrangements where they were no longer appropriate or necessary. We represent clients where a loved one has been involuntarily committed to a mental health facility and work with our clients toward a result that will provide peace of mind. Whether due to minority or incapacity, the creation of guardianships or conservatorships is often necessary to carry out an estate plan or provide for the needs of an individual.

### **Trusts & Estates Litigation**

While our attorneys aim to resolve disputes through compromises and alternative dispute resolution methods, we recognize that litigation is sometimes unavoidable. Our attorneys are therefore skilled in handling any type of trust, estate, guardianship, power of attorney, or inter-vivos transfer dispute in the Superior Court of New Jersey or the Orphans' Courts in Pennsylvania. We know that trust and estate litigation can often times be emotional. Therefore, we work closely with our clients to advise them throughout litigation to effectively guide them through the process. Read more about our litigation practice [here](#).