



THE LAW OFFICES OF
**SAMANTHA
K. WOLFE**
LLC
Providing mindful legal direction

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Volume 2 / Issue 4
Newsletter

Did you know!!

Antarctica is covered in a sheet of ice that's 7,000 feet thick. That is about 19 football fields. If the sheet of ice ever suddenly melted, it would raise the sea level worldwide an estimated 200 feet and submerge much of the Gulf and Atlantic coastal areas of the U.S.



The most snow ever recorded in 24 hours in the United States was a Silver Lake, Colorado in 1921 at 76 inches. Coming in second is Georgetown, Colorado, on December 4, 1913, at 63 inches.



If you make a check payable to a medical or educational institution, it is not considered a gift for federal gift tax purposes. That means a grandparent can contribute needs toward college tuition and still gift up to \$15,000 annually to a grandchild. Contact our office for the specifics about transfers to your grandchildren.

SO... YOUR GRANDKIDS ARE OFF TO COLLEGE....

By Noah Hazlett

The past August, I began my third year of college at Robert Morris University. I spent my summer at *The Law Offices of Samantha K. Wolfe, LLC*, and had gained a great deal of knowledge about elder law and estate planning. At the same time, my grandfather was himself looking into his own estate planning so that he could find peace of mind. My grandfather asked me a couple of questions about estate planning; (1) where he should start and (2) what to look for regarding his planning. He has always been a great role model and positive influence in my life, so I was more than happy to give him the most information that an intern could. I was thrilled that he was looking into estate planning, since an estate plan would allow him to be well prepared for whatever life throws at him in the future. This brought me to the realization that others would also benefit from addressing their estate planning need when their grandchildren are at one of the following stages of life: graduated high school and entering college, trade school, or even the work force. Questions that are important to ask or consider are: (1) Should I invest in a 529 plan? (2) Should I gift funds to my grandchild to pay for college? If so, what is the best way to transfer funds? (3) Should I use an UTMA account? or (4) Would a trust be helpful? While most people do not have a grandson who has interned at a law office, addressing your estate planning at this time and protecting or providing financial gifts for your future generations is a great rule of thumb to follow regardless.



MAKING A DIFFERENCE IN OUR COMMUNITY THIS HOLIDAY SEASON

Our law office will be collecting non-perishable items to donate to our local food bank this year for the holidays. If you would like to contribute, please drop off your non-perishable items at our office during normal business hours of Monday-Friday between 8:30 a.m. and 4:30 p.m. by December 17th. Help us make a difference in our community.



Virtual seminars

We would like to thank everyone for attending the virtual seminars over the past few months. The support from everyone has been overwhelming. We are looking forward to the upcoming topics we will cover during our monthly seminars. We have marked our calendars and hope you do the same. The following dates and topics are:

- ❖ **November 11, 2021 @ 12 pm-1 pm: “Veteran’s Benefits”**
- ❖ **December 16, 2021 @ 12 pm-1 pm: “Don’t be Scrooged, the Ins & Outs of Gifting”**
- ❖ **January 27, 2022 @ 12 pm-1 pm: “The Tale of Robin Hood & the New Taxes”**

We hope you can join us. Please note that we always add our virtual seminars to the seminar library on our YouTube channel, so please subscribe to our channel (www.youtube.com/channel/UCaQWFDV4chTFIqeJxuGU9Pw) so you know when we post new material. If you are interested in learning more about a certain document or topic, please let us know. If you missed any of our newsletters, please contact us at (717)-655-2676 or email us at meek@skwlawoffice.com to request your electronic copy.

Blog from the Boss (Or Basically Sam’s Humble Musings):

Trusts: To Create During Life (Inter Vivos) or Not to Create During Life (Testamentary)

By: Samantha K. Wolfe, Esquire, LL.M. in Taxation

Of course, people are getting smarter nowadays; they are letting lawyers instead of their conscience be their guides.
- Will Rogers, American Cowboy and Humorist

People are uncomfortable around attorneys. Recently, I attended a party and when I was introduced to some fellow partygoers and they asked my occupation, I said “Oh, I’m an attorney. But, don’t worry, not a real one.” The fact is, I am an attorney. A real one. No, I do not often appear in a courtroom, but I attended law school. I took the bar exam to become licensed to practice law in Pennsylvania. I love my job. I love working with clients. I wish I could go back and amend my introduction; I would say, “Oh, I’m an attorney who helps clients achieve their estate planning goals for future generations.” I am on the same team as my clients. We want to achieve the same goal.

The Law Offices of Samantha K. Wolfe, LLC is a law firm that focuses on estate planning, asset protection planning, supplemental needs planning, long-term care pre-planning, estate administration, and business succession planning. We use the law for good; to help our clients design the best estate plan for them as individuals. A lot of what we do revolves around trusts. We love trusts, and are comfortable, and confident, with trusts. Trusts can be an essential tool for estate planning and asset protection planning. Part of our job as a law firm is to review trusts that clients may have executed prior to engaging our law firm to determine if the trust is needed, and if so, whether there are any changes needed to be made to the trust to plan for the second half of life. Occasionally, a client will come to our office with a testamentary trust created through the provisions of their Last Will and Testament.

A testamentary trust is one that is created through a Last Will and Testament. It provides for the distribution of all or part of the estate. Because a testamentary trust is created upon death, the person cannot fund the testamentary trust during life. On the other hand, an inter vivos trust is one that is created by someone during his or her life. Assets can be transferred to an inter vivos trust during life or upon death. For example, a Last Will and Testament can include a provision that certain assets pay to an inter vivos trust.

Our office prefers using an inter vivos trust instead of a testamentary trust. Here are nine things to know about the difference between testamentary trusts and inter vivos trusts:

1. A testamentary trust is only created when the testator or testatrix, the individual that executed the Last Will and Testament, dies. A testamentary trust offers no benefit to the testator or testatrix during his or her life. The individual who creates an inter vivos trust, the grantor, can transfer assets to the inter vivos trust during life and use the trust while living.
2. A testamentary trust is irrevocable, so the only way the terms of the trust can be changed is to execute a new Last Will and Testament. An inter vivos trust can be revocable or irrevocable depending on what you want to accomplish. A revocable inter vivos trust can be changed at any time without having to execute a new Last Will and Testament. The grantor of an irrevocable inter vivos trust may have the ability to add or remove beneficiaries depending on the provisions of the trust.
3. A testamentary trust is subject to the Pennsylvania probate process, and is under court supervision. In order to establish the testamentary trust, the decedent's Last Will and Testament needs to be admitted to probate. An inter vivos trust is a contract between private parties and does not require ongoing court supervision. If the inter vivos trust is funded by assets through the Last Will and Testament, those assets do have to be probated. If the inter vivos trust is funded during life, however, those assets do not need to be probated when the grantor dies.
4. A testamentary trust does not include provisions regarding disability since it is not created until the testator dies. An inter vivos trust can be privately managed without any court involvement if the trust creator, the grantor, becomes disabled. When our office prepares an inter vivos trust, we include provisions that address how to appoint a successor trustee to manage the trust if the grantor becomes incapacitated.
5. Testamentary trusts are frequently used for families with underage children, but Pennsylvania does allow an individual to establish a Uniform Transfers to Minors Act (UTMA) account for anyone under the age of 25. This allows the testator or testatrix under the Last Will and Testament to appoint a custodian for any beneficiary under the age of 25. That custodian holds those assets for the benefit of that underage beneficiary until that individual attains age 25. At age 25, the funds are transferred to that beneficiary. The beneficiary has guidance until attaining a more mature age without the hassle of administering a testamentary trust.
6. Because a testamentary trust is part of the Last Will and Testament, it typically contains only the essential provisions and relies on the Pennsylvania Uniform Trust Act to provide the rest of the provisions for the trust. The issue with relying on the statutory provisions for a trust is that you don't know what the Pennsylvania Uniform Trust Act is going to be at the time of your death. When you create an inter vivos trust, you can provide for all of the situations you want, and you are not stuck with default trust provisions that you don't know. You will know what those provisions are at the time you create the trust and won't have to guess.
7. Typically, a testamentary trust is existence for as long as the provisions included in the Last Will and Testament specify (for example, until the child is age 25) or until someone petitions the court to terminate the trust because the trust is no longer economically feasible. An inter vivos trust can provide an internal mechanism under which the trust can be terminated without court involvement. This is especially important when you don't know what the future holds for your beneficiaries.
8. A lot of the testamentary trusts we review were created under Last Will and Testaments executed prior to the medicare surtax and the graduated trust tax rates. Because these trusts are irrevocable, non-grantor trusts, the trusts may be subject to the highest income tax rate of 37.0% (2021) and the net investment income surtax of 3.8% since the legal professional who prepared those documents was not considering the changes in the tax law. Under the inter vivos trust, you have the freedom to expand on those provisions of the trust and address any future tax situation.

9. Creating an inter vivos trust makes it much easier to designate the trust as the beneficiary of life insurance policies or retirement accounts because the trust is already in existence. You can ensure that the provisions of the inter vivos trust will achieve the trust out while you are living instead of waiting until you pass away to ensure that.

Death is not the end. There remains the litigation over the estate.
-Ambrose Bierce

Inter vivos trusts and testamentary trusts are both tools used for estate planning purposes. There are situations that may be better served by utilizing an inter vivos trust instead of establishing a trust through your Last Will and Testament. Please make sure to discuss with your legal professional the goals you hope to accomplish so that the professional can advise you on which type of trust is best suited for your needs. If an inter vivos trust is the recommended technique, do not be overwhelmed by the fact that the trust exists during your life or may be a lengthy document. When you have a trusted legal professional as part of your team, this professional can advise you every step of the way.

Simply Blessed



Travis, Dave, and John George

D.L. George and Sons have been known in the Waynesboro area for many years. Since 1963 to be exact. What started as just wanting to be a truck driver, landed Dave George a job at a construction site that he said set him on a course. "I don't know how anyone could have had a better experience on a job than I did," he said. "That job has carried me the rest of my life, things I learned on that job." Struggles came and went as in any business but that never brought Dave down. He kept chugging along and built his company up. Dave, along with his sons, Travis and John, provide a peace of mind not only for their employees but for the businesses that lease space from them in the Landis Complex. As a business owner in the Landis Complex, The Law Offices of Samantha K. Wolfe, LLC is so grateful for the hospitality that the George Family provides. It is not unusual to see Dave or John a few times a week popping in just to say "Hi" and ensuring everything is ok for their tenants. Sometimes, they even bring us tasty treats that we enjoy. We are so blessed that we are able to call them our friends. This Thanksgiving season, we want to say "thank you" to the George Family for their wonderful generosity. All of us here at the law office think of the Landis Complex as a second home because of them.

Our Mission is to **provide mindful legal direction for you and your future generations**. We are committed to fulfilling our mission to you, our client, by adhering to the following principles:

C-Collaborating with your accountant and financial advisor to create the best team for you.

A-Advocating for you and your family in times of crisis

R-Reinforcing your estate plan with asset protection strategies

E-Ensuring efficient administration upon your death

We **CARE**. We are looking forward to serving you!

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The Law Offices of Samantha K. Wolfe



www.skwlawoffice.com

*I've
So much to be*
THANKFUL
For