

THE

## LEGACY PLANNER

## THE MISSING LINK TO LEAVING A LASTING LEGACY

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GALBRAITH  
& McMAINS

A LEGACY PLANNING LAW FIRM

A Professional Corporation

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Imagine the long hours necessary to plan and find the ideal home with the qualities you need and desire. Imagine the time and cost associated with financing and purchasing this ideal home. Then, imagine yourself, after signing the closing paperwork, returning back to your previous home and never taking the steps necessary to actually move your possessions into your new home. Sound ludicrous? In fact, that is what a majority of America is doing with their estate planning. They are signing their revocable living trusts and failing to "move in" their assets.

To truly accomplish your estate planning goals, you need to do more than merely sign a trust. The key to making your estate plan actually work is taking the necessary steps to transfer your property into your trust so that your instructions will actually control the assets as you have intended. The process of retitling your assets to your trust is called "trust funding", and it is often the missing link to successfully leaving a lasting legacy.

**Funding Your Legacy Plan.** Perhaps the most essential goal of creating a trust is to control the distribution of assets upon your death. Very often, great thought and detail is put into how best to structure an inheritance. Whether it is a situation involving a 2nd marriage with blended families, a family business, a family member with disabilities, or a family plagued with unsuccessful marriages – detailed planning can be done to handle the situation. However, the success of this planning depends upon whether your trust will actually control the assets you are seeking to leave for those you love.

For example, if your assets continue to be owned in joint name, your assets will pass directly to the joint tenant and completely bypass your trust planning. Or, if your beneficiary designations on your retirement accounts and life insurance policies still list individuals by name, these assets will pass directly to the individual - separate from any trust planning you have done. To insure the planning you have carefully done within your trust will actually work the way you

intended, steps need to be taken to retitle your joint property and, when appropriate, change your beneficiary designations.

**Funding Your Tax Plan.** Another significant goal when doing proper estate planning is to reduce the federal estate tax owed by your estate. To maximize the estate tax savings component of your trust, you would ideally fund each spouse's living trust with assets totaling at least the federal applicable exclusion amount, currently \$1,000,000. Failure to fund your trust's tax planning will certainly result in more complication in the after death administration of your affairs and will likely result in additional, avoidable tax dollars owed by your estate.

**Achieving Probate Avoidance.** An often publicized benefit of trust planning is the potential to avoid the probate process upon your death. You should know, however, that just signing a trust won't accomplish this goal. In Indiana, your estate will still go through probate if you own assets in your individual name exceeding \$25,000 in cumulative value regardless of the estate planning documents you may or may not have signed. To avoid the probate process, you need to change the ownership of your assets to your trust. If you own real estate outside of Indiana, be sure to keep in mind the additional cost and complication of having additional, separate probate proceedings in each state where you own real estate. In some cases, time shares may even cause an out-of-state probate upon the death of the individual owning the time share interest. Once again, the solution to this potential problem lies in properly funding the out-of-state real estate into your trust.

If you invest the time and expense in doing quality, detailed trust planning, be sure to maximize the benefits of such planning and take the steps necessary to properly fund your assets into your trust. We at Galbraith & McMains, P.C., are committed to helping our clients fund their trust planning. Please feel free to call us and ask about our strategic funding and legacy management updating services.

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## FIRM NEWS

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Earlier this month, Tim Ueber successfully hosted the *Swing for Sight Golf Classic* to benefit The Foundation Fighting Blindness. We can proudly announce that the team of Galbraith & McMains did not come in last place!

**Galbraith & McMains launches the Business Compliance Program.** A new service designed to ensure our business owners comply with state filing requirements; keep appropriate records of shareholders and director activities; and generally remain in good standing. For more information on the compliance program, call Tim Ueber, Managing Attorney.

We are pleased to announce that **Galbraith & McMains** was highlighted in a feature article in *Lawyers Weekly USA*, a national publication for law firms. The article entitled "Estate Plan 'Updating' Program Helps Small Firm Flourish", discusses how our Legacy Management Program "differentiates [our practice] from others by going the extra mile." The article further states that, "our [firm's] emphasis on personal planning issues makes it unique and very desirable for clients." One commentator stated, "it's the wave of the future" for estate planning lawyers.

### THE TRUSTEE TRAINING WORKSHOP

Presented by

JEANNE LEE McMAINS

Saturday, November 30 2002  
Ten O'clock AM

Holiday Inn Northeast (call for directions)

RSVP to Gail Miller by Monday, November 25, 2002  
317.578.1400



- We are pleased to invite you and those you have named as Trustees in your Estate Plan to a brief one hour program.
- This program is part of our firm's commitment to you and the ongoing review of your estate plan.
  - It is designed to familiarize your trustees with the general nature of the estate plan you have implemented and the tasks that they will someday be asked to perform.

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## UPCOMING EVENT

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