

# ALERT

April 2020

## Estate Planning Alert – Issues To Contemplate Post-Coronavirus (COVID-19) MH&H Trusts & Estates Team

### Dear Clients, Friends & Colleagues:

We hope this newsletter finds you and your loved ones safe and healthy. The coronavirus "lock down" is causing many of our clients to re-think their existing estate plans. Many of you want to make modifications or take additional steps to improve your estate plan now or once this crisis is over. In addition to your own personal revisions, the following highlights two (2) issues you may also want to consider:

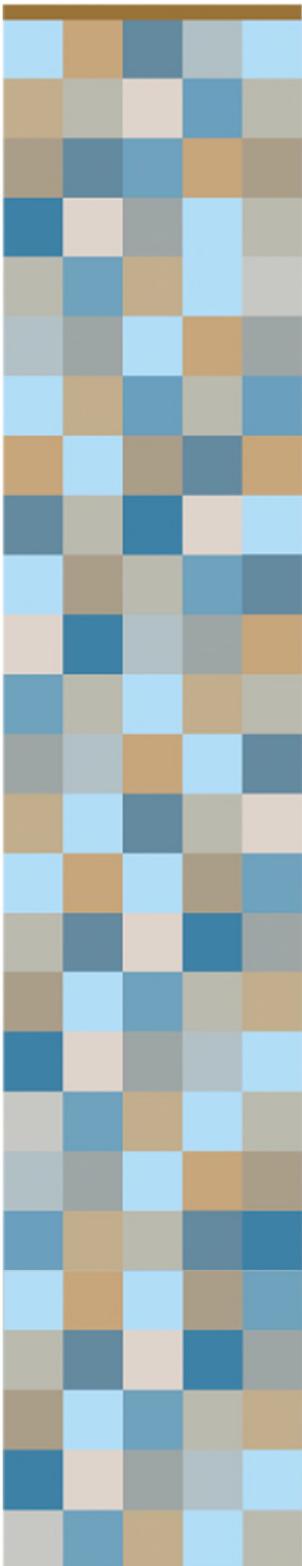
#### **Practical Takeaways:**

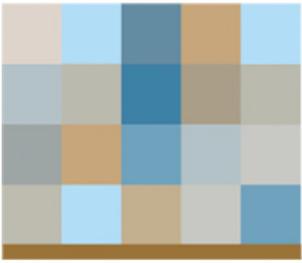
- Consider Moving To A Revocable Trust Concept To Avoid Surrogate's Court Backlog
- Review Your Insurance Coverage & Consider Changes

### **1. Use of a Revocable Trust to Avoid the Probate Process.**

Until recently, most of our New York and New Jersey clients executed a Last Will and Testament (a "Will") to dispose of their assets upon death. This made perfect sense since the probate process (i.e., the legal process through which a court insures that when a person dies his/her debts are paid, fiduciaries are appointed to administer his/her estate and his/her property is distributed according to his/her Will) was relatively inexpensive, efficient and timely.

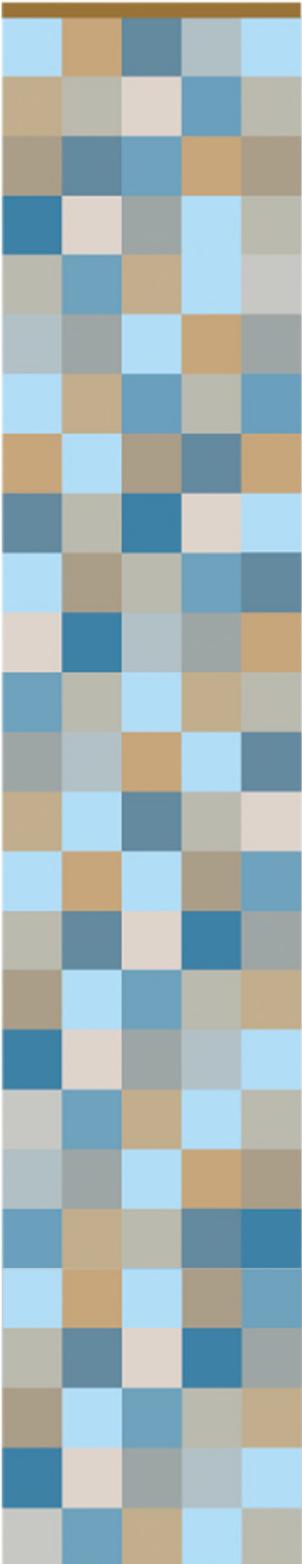
Prior to the coronavirus pandemic (and mostly due to State budget cuts), we noticed that the court systems were working with a smaller staff. This lack of sufficient personnel coupled with an ever-increasing caseload has noticeably slowed down the efficiency of the probate process. It was just taking longer for Wills to be "probated" and fiduciaries appointed. Without the appointment of a





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fiduciary, no one is permitted to access a decedent's funds or act on a decedent's behalf. Now, because of the spread of the coronavirus, almost all court functions have ceased. When things return to "normal", there will be a tremendous backlog as the Courts will have to (i) process all matters that were pending prior to the shutdown and (ii) manage the countless new matters being presented to the Courts.

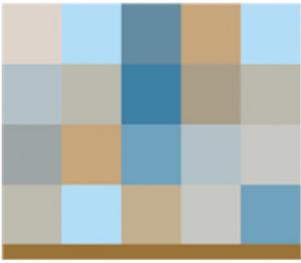
One way to avoid having to use the Courts in the future is to use a Revocable Trust as your main dispositive instrument. A Revocable Trust is a written agreement involving three (3) parties: (i) a "Grantor" (the person establishing the Revocable Trust), (ii) a "Trustee" (the person in charge of the Revocable Trust [often times, the Grantor is also the Trustee]), and (iii) the beneficiaries of the Revocable Trust. Simply put, the Grantor transfers his/her assets to the Revocable Trust and these Trust assets are managed by the Trustee(s) during the Grantor's lifetime.

Most importantly, the Trust agreement defines how the Trust assets are to be distributed upon the Grantor's death. The Trustees are obligated to adhere to the terms of the Trust agreement regarding same. There is no requirement to seek Court approval of the Revocable Trust nor for the appointment of fiduciaries. Through the use of a Revocable Trust, an individual avoids the probate process. Now, more than ever, this plan is something worth considering.

## **2. Is Your Life Insurance Adequate? Are Your Adult Children Property Insured?**

Unfortunately, the grim effect of the coronavirus has caused many of our clients to contemplate their own mortality. Many are now focusing on life insurance and the benefits of same. Now is probably a good time to review your existing policies of life insurance. Determine the amount of coverage. Is it sufficient to protect your family? Look at the costs of same. Can your money buy you a better policy? Are there any possible changes on the horizon (e.g., an expiring term)? Confirm that the beneficiaries listed with the insurer are still your intended beneficiaries. If not, make immediate changes.

Additionally, we encourage all parents of adult children with their own families to have an open and honest discussion regarding life insurance coverage. We have found that many young couples that are "just getting started" are underinsured (often times due to the enormous costs of daily living and, sometimes, due to a youthful belief of their invincibility). We have unfortunately seen incidents when the death of a son, daughter, son-in-law or daughter-in-law has placed tremendous



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economic burdens on the parents of the deceased child who have helped fill the financial gaps caused by the death of a loved one. We urge parents to have a discussion with their adult children to see if they are adequately insured.

If any of you need your life insurance analyzed or need to speak to a highly qualified insurance professional, please ask us as we work with some of the finest insurance professionals in the industry. Our contact information is set forth below:

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- [Louis P. Karol](#)
- [Steven L. Kay](#)
- [Henry E. Klosowski](#)
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Please stay safe and reach out to us as needed.



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