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Explanation. Some of you may have noticed that we only sent three quarterly newsletters during 2021. That was because we sent an eight page "special alert" on September 24, 2021, to over one hundred clients who had created some type of irrevocable grantor trust prior to that date. Examples of irrevocable grantor trusts include (i) Intentionally Defective Grantor Trusts (IDGTs) (most irrevocable "Gift Trusts" or "Descendant's Trusts" are of this type), (ii) Grantor Retained Annuity Trusts (GRATs), (iii) Spousal Lifetime Access Trusts (SLATs), and (iv) Irrevocable Life Insurance Trusts (ILITs). The reason we sent the special alert to certain clients is because of the proposed budget reconciliation bill marked up by the House Ways and Means Committee a couple weeks prior to that, which contained several very significant proposals that would have negatively affected already existing irrevocable grantor trusts and basically shut down the use of such trusts in the future. We also spent several months after the proposals came out, helping clients prepare for the possibility that these irrevocable grantor trust provisions would become law. Fortunately, these draconian provisions never made it into the Build Back Better Act that was passed by the House of Representatives on November 19, 2021. As of this date, the US Senate has not passed the Build Back Better Act. Because the proposed changes to irrevocable grantor trusts are not included in the Build Back Better Act, even if a modified version of the Act is passed this year, it is doubtful the irrevocable grantor trust provisions will be included (although there is always the possibility they could be).

Important Tax Numbers for 2022. Due to inflation adjustments, here are some of the exemption amounts relating to "transfer taxes" applicable for 2022:

Annual Gift Tax Exclusion: \$16,000
Estate Tax Exclusion: \$12,060,000
Lifetime Gift Tax Exemption: \$12,060,000
GST Exemption: \$12,060,000

Leaving a Legacy Beyond Wealth. The coronavirus pandemic has caused a lot of people to become more introspective. We all recognize that our time on earth is finite. Many have asked, "What is it that makes life worthwhile?" During these difficult times, most people have come to appreciate their relationships with others, especially their relationships with family members and other loved ones. This got us thinking about a topic we have not discussed in a long time. Below, we have copied and printed part of a newsletter that Karen Gerstner and one of her former law partners wrote over 20 years ago. It seems like a good time to reconsider these matters.

Introduction. Estate planning usually focuses on preserving and transferring accumulated wealth to loved ones. While this objective is important, most people have spent a lifetime accumulating something much more precious than tangible wealth. Surprisingly few people make the effort to pass these treasures along to their families. By investing a little time to memorialize your values, beliefs, family history, and other important knowledge, you can pass along a legacy that no amount of money can ever replace. People who take the time to preserve and pass along their lifetime of wisdom leave their families an invaluable gift when they die.

As attorneys specializing in tax and estate planning, we focus our efforts on preparing Wills, Trusts and other legal documents for our clients. A Will is a critically important legal document. It

describes to whom and under what terms you want your assets to pass at death. It appoints someone (the independent executor) to be in charge of the distribution of your assets and the handling of other required post-death matters. It can also provide important instructions and guidelines. A Will is a necessary and valuable legal document. However, it may not be the final statement that you want to make to your loved ones. It does not (and cannot) cover some very important matters.

The Ethical Will. There is another type of "Will" that has recently gained popularity, even though it has ancient origins. Your estate planning lawyer is not involved in the preparation of this type of Will. It is a very personal document that you prepare yourself. It has been called an "Ethical Will." An Ethical Will does not try to dispose of assets or to address other legal issues. Instead, it allows you to pass on to your family members and other loved ones your values, beliefs, life lessons, family history, hopes for the future, and pearls of wisdom. Some people who have discussed and promoted the idea of writing these things down for your loved ones have labeled it a "Love Letter." However, because it is usually written to be read upon a person's death, it has some similarities to a Will.

The Ethical Will comes from the Jewish tradition. Originally, the idea was to bequeath a spiritual legacy to family members and especially to children. In reality, the most precious thing we leave behind when we die is not our assets, but our legacy of values and beliefs. We all hope that the lives we have led will reflect our values and beliefs and be a statement in and of itself. Yet, writing out our values and beliefs in a tangible document that can be passed on to loved ones can make these beliefs and values more permanent and special.

How Do I Prepare an Ethical Will? Perhaps the most important thing to keep in mind is that, with few exceptions, there is no right or wrong way to prepare an Ethical Will. Common themes in modern Ethical Wills include:

- Personal values
- Family values
- Spiritual values and beliefs
- Hopes and blessings for future generations
- Life's lessons/pearls of wisdom
- Family stories and family history
- Family sayings, special words, and traditions
- Humorous anecdotes or other bits of humor
- Practical instructions, guidelines and recommendations
- Praise and recognition
- Encouragement
- Thanksgiving and gratefulness
- Forgiving others and asking for forgiveness

Avoid Negative Messages. Proponents of Ethical Wills warn that these final documents can do harm as well as good. If the Ethical Will is written in such a way that it indicates a desire to control from the grave (instead of to teach or advise, for example), then it may not leave the desired legacy. Also, if it is hateful, verbally abusive or otherwise overly critical or negative, it can severely cripple the recipient and perhaps be permanently damaging. In extreme cases, negative statements can give rise to claims of libel against the estate of the writer of the document, even if it is read only after the writer is deceased.

Preparing your Ethical Will. Most Ethical Wills are either handwritten or typewritten. If an Ethical Will is handwritten, it will be best preserved if you use acid-free paper and a fountain pen (versus a ball point pen). There is no reason, however, why an Ethical Will could not be prepared on audio or video tape. Ethical Wills might even include photographs, drawings or other graphic material. Because Ethical Wills are personal, not legal, documents, there are no rules or restrictions on the length, content or format—your Ethical Will can be whatever you want it to be. Just remember that if the final words from you are basically positive, they will truly be treasured by your recipients.

As an example, here is an excerpt from an Ethical Will written by a mother to her children:

I hope I shall have given all of you
something which is more precious than gold and jewels.
I hope and pray that during the years we have had together
I have given you a love of our faith,
a trust in God, from whom all blessings flow,
a devotion to righteousness, to justice and to peace...

These are the jewels more precious than rubies
which I hope will make your lives rich
in all that is worthwhile for many years to come
as I think they have made mine.

May God shower you with His blessings
and may you share your blessings with others.

God bless all of you,
Your Mother,
Sadie S. Kulakofsky
April 24, 1953

Important Precaution. Although an Ethical Will is not a legal document, a carelessly prepared Ethical Will can accidentally amend your real Will or other estate planning documents. To reduce this risk, do not include any gifts of assets of any type in your Ethical Will. Also, consider adding this postscript to your Ethical Will: "P.S. This is an Ethical Will. It is not a Will or Codicil or other amendment to any other estate planning document."

Finally, don't forget to tell someone that you have written an Ethical Will and where it is located.

Resources for Ethical Wills. How do you get more information about Ethical Wills? Seminars have been held in Houston at The Cenacle Retreat House led jointly by Jewish, Catholic and Protestant leaders. Numerous books have appeared in recent years discussing Ethical Wills and many Internet sites also have information on Ethical Wills. Here are some Ethical Will resources:

1. *So That Your Values Live On - Ethical Wills and How to Prepare Them*, by Jack Reimer and Nathaniel Stampfer (Jewish Lights Publishing, Woodstock, Vermont, 1991)
2. www.ethicalwill.com, a commercial site that offers Ethical Will workbooks and resources

Conclusion. We are still learning how to prepare newsletters using our new format. Hopefully, we will continue to improve as we gain more experience with this program.

Contact us:

If you have any questions about the material in this publication, or if we can be of assistance to you or someone you know regarding estate planning or probate matters, feel free to contact us by phone (713-520-5205), fax (713-520-5235) or email sent to:

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