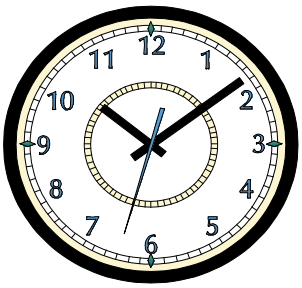
Summer 2003, Vol. 10, No. 3

Two Minute Legal Update



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Nine Rules of the Road

It is possible to layout some general guidelines as you begin addressing the preparation of an estate plan and to ensure that your estate plan stays current as time goes by.

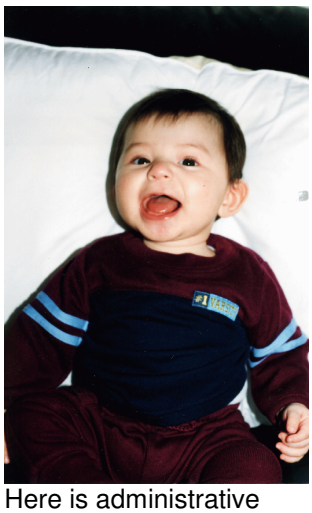
1. *With some exceptions, the IRS taxes ownership of an asset, not control of the asset.* For example, a general partner in a partnership can have significant authority over how assets are invested and dictate any distributions of cash from the partnership. However, some or even all of the partnership can be owned by other members of the family. This is especially important since very few of us are comfortable transferring ownership *and* complete control.

2. *Hope for the best, plan for the worst.* This attitude will allow you to implement plans or strategies which will protect you and your loved ones from misfortune which may befall them. While none of us expect catastrophe, lawsuits, or the dissolution of marriages, it is realistic to anticipate that some of these events may happen. See number seven below.

3. *Fractionalize your assets.* Imagine splitting a large, valuable diamond into smaller pieces; the smaller pieces are not as valuable as the larger asset. This concept is also easily applied to real estate, partnership assets, and ownership in a closely-held business.

4. *Build your family a foundation.* See our Spring 2002 newsletter for a more thorough discussion of why the benefits of foundations should be considered.

5. *Mind the details.* Too many beautifully crafted estate plans fail to perform properly. Confirming the title of assets and properly designating beneficiaries of life insurance and IRA's or 401(k)'s is critical. Your estate plan will fail if your assets are not properly titled. The burden to properly title these assets rests on the owner of those accounts, but recognize that we are always available to assist and counsel in all funding issues.



Here is administrative assistant Mariana Valdovinos' new son, Izaak. He was born June 27, 2003, weighing in at 6 lbs., 7 oz. and 20 inches long.

6. *Review and revise.* Estate laws and regulations change frequently. Consult with your estate attorney at least every five years and as often as every year if a large portion of your estate is owned in an IRA/401(k)/annuity or you have a major event in your life.

7. *Build a brick house.* A "brick house" is our term for a dynasty trust or generation-skipping trust. A future newsletter will offer a more thorough discussion of how a brick house can protect you and your family from divorce, creditors, and unnecessary estate taxation.

8. *Succession planning.* If you own a business or a single piece of property, and you have children or co-owners, there will likely be conflict over who will control the property or the business. There is no better person than the business owner to determine who will run the business and how an estate should be divided. The time to do that is now, with the realization that some succession plans can be revised as time passes.

9. *Seek good help.* Be willing to use professionals who focus on the areas of interest to you. Be they estate attorneys, ERISA attorneys, investment specialists, or insurance experts--do not be penny-wise and pound-foolish is when you are dealing with the health and welfare of what it most important, you and your family.