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## FAMILY WEALTH TRUST

*Calculating the Benefits*



## ABOUT THE FIRM

Wood Legal Group, LLP provides quality, personalized estate planning for our clients. Whether you need an attorney for Estate Planning, Trust administration, Probate litigation or a Certified Financial Planning Professional, our team of qualified individuals and referral partners, are here to help you and your loved ones.



In these turbulent times, if you or your loved ones would like a 1 hour complimentary consultation to discuss your estate plan and financial strategy, visit our website at [www.woodlegalgroup.com](http://www.woodlegalgroup.com), or call us today at **626-898-9195** to attend a seminar. We present seminars on a variety of estate planning and elder law topics and offer a free consultation to all attendees (a \$350 value). Call us today!

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## A MESSAGE FROM THE FOUNDERS: ESTATE PLANNING & BLACK WEALTH

The foundation for the phenomenal wealth in the United States was laid on the backs of African Americans through centuries of forced labor. When you consider that for nearly 250 years black people were violently enslaved without legal status as full human beings, and for the next 100+ years public policy and social custom explicitly and often viciously relegated black people to second-class citizenship, it should come as no surprise that in 2019, on the 400th anniversary of our arrival here, the wealth gap between black and white Americans is enormous.

In fact, economists at the Institute for Policy Studies in Washington, D.C. warn that **by the year 2053, median black household wealth is on a path to hit \$0** if the racial wealth divide is left unaddressed. This suggests that the legacy of those ill-gotten gains at the expense of African Americans has become a structural part of American life. Traditional paths to wealth and prosperity for others in America, such as access to education, capital, and to the courts for fair and impartial application of the law, have been denied black people in overt and insidious ways for the more than 150 years since Emancipation. While we have made tremendous progress narrowing the income gap, **it is said that the gap in wealth, more than 40% of which is passed down through the generations, will take another 200+ years for African Americans to close.**

These are some devastating statistics. Talk abounds on social media and other platforms promoting ideas individuals can pursue to build generational black wealth. This is valuable consciousness-raising and a meaningful aspiration. But it is also important to understand clearly that the wealth gap is a structural problem set in motion largely by federal and state policies that very explicitly advantaged “whiteness,” and effectively cemented economic disparity between blacks and whites into American society for generations.

Structural problems require structural solutions, and structural solutions require the political will to accomplish a particular end, something that has rarely been a priority in U.S. politics where African American advancement is concerned. This reality does not mean we just throw our hands up though. We never have, and we never will. We continue to push on all fronts. And, in many ways, economic opportunities in America have never been better for us. Information is more

### 3 Family Wealth Trust

available to more people than ever before in history. Our challenge in the throes of so much information is to dispel myths and misinformation, confirm we are acquiring accurate information, spread it far and wide, and put it in play for the benefit of African American families and communities.

One area that is not widely talked about but should be is the tragic loss we subject ourselves to when we give up our wealth unnecessarily at the time of a propertied relative's death. This happens every time a black family settles an estate under the probate process rather than under the terms of a living trust inside a professionally drafted estate plan. You may be shocked to learn that nearly 26 million African Americans (70%) are poised to forfeit at minimum 30% of their wealth at the time of this generational transfer. Too many black families have found themselves in this situation because they did not know that through an estate plan they could control the distribution of their assets for the benefit of the next generation, outside of probate. Fewer than 3% of African Americans have effective multigenerational estate plans in place.

A will alone is not sufficient. We cannot say it often enough. If all you have is a will protecting your assets for the benefit of your loved ones, your estate may be significantly diminished as it goes through the probate process. Time and again we hear the many misconceptions our families have about the transfer of wealth. The notion that every estate must go through probate has been passed down as a kind of folklore. We will say it again, for most families, **a stand-alone will is not sufficient, probate is not a requirement, and the pitfalls of probate can be avoided.**

When life ends---a fate none of us will escape---you certainly do not want 30% or more of what you have worked a lifetime to achieve to go to Creditors, probate court costs and attorney's fees instead of going to your family. Without an estate plan that protects your assets, this is exactly what can happen. Don't leave everything your've worked for to chance. Make a comprehensive estate plan.

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## FAMILY WEALTH TRUST

Chances are you have already heard a lot about the attributes of Living Trusts, and how important it is to avoid probate. A Living Trust helps keep your estate from becoming tangled up in a legal quagmire. It can even lower estate and/or income taxes and protect your financial privacy. Our firm has found that looking after financial assets is only part of the process of planning to pass on your legacy. Speaking from the heart, assets of a non-financial nature are often more valued and all too frequently omitted when passing an estate to future generations. You want a firm that focuses on complete “legacy planning” to provide you more than a simple Will or a “bare bones” Living Trust can offer. We put this special report together to give you a fuller picture of what a Family Wealth Trust can do for you and the succeeding generations of your family.

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## WHY CHOOSE A FAMILY WEALTH TRUST?

Providing for and protecting your children and grandchildren, along with passing on your values and wisdom...are the most common reasons for creating a Family Wealth Trust. In the case of minors, a trust allows a parent to provide for a child without giving the child control over the property. The parent can also mandate how and when the property is to be distributed, and for what purposes.

A trust is also a useful tool for taking care of family members who have physical or mental impairments, or lack financial experience. The trust document can establish that all money is controlled by a trustee with sound investment experience and judgment. Likewise, a trust preserves the integrity of funds when the recipient has a history of extravagance. It can protect the property from a beneficiary’s spendthrift nature, as well as from his or her creditors.

This is also true of persons who may feel pressure from friends, con artists, financial advisors and others who want a slice of the pie. A Family Wealth Trust can make it extremely difficult for charlatans to take advantage of unsuspecting beneficiaries.

A “spendthrift” provision in a Family Wealth Trust is often used to further preserve the integrity of assets. It prohibits the recipient from transferring his or her interest and also bars creditors from reaching into the trust. Family Wealth Trusts are relatively easy to update, modify or revoke in most cases, while a Will is difficult to change, and requires many formalities to establish.

## SHORT-CIRCUITING THE ORDEAL OF PROBATE

One popular benefit of a Family Wealth Trust is the avoidance of probate. Because property in the trust is not considered part of an estate, it does not have to undergo this sometimes lengthy process. The property is instead administered and distributed by the trustee, according to the specific terms you have specified in your trust.

Probate expenses can be significant. Costs vary according to the size of the estate and what it includes. It also varies by state. Some states have very expensive and onerous procedures, while others offer a streamlined version of probate. Cumulatively, across the US, approximately ***\$2 billion is lost in the probate process every year!***

Avoiding probate means not only avoiding hassle and expense, but also saving time. Probate can extend the amount of time before a beneficiary receives an inheritance by months, years - even longer, if the will is contested. This does not only create hardship among the beneficiaries, but the property in the estate may also suffer. Many assets must be carefully managed to preserve and enhance their value. Losses in value can easily occur during this interim period.

There is an emotional price to pay, too. Survivors may be continually reminded of the loss of a loved one as the process drags on.

Probate can also lead to loss of privacy. Wills and probate proceedings are public matters. By contrast, a Family Wealth Trust keeps the estate private. Typical probate documents list all



assets, appraised value and names of new owners. This information becomes available to marketers, media, creditors and con artists.

If the estate includes real property in more than one state, the process becomes even more complex. An ancillary administration is required to probate out-of-state real estate. As you can imagine, “double probate” is even more time-consuming, more expensive and more emotionally taxing than a single probate process.

Tragically, probate also allows the original owner’s creditors a shot at the property. Although there is still some controversy about the extent of its creditor-shielding benefits, a Family Wealth Trust generally makes it much more difficult for an estate to be consumed by creditor claims.

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## MAINTAINING CONTROL

Family Wealth Trusts are more difficult to contest than are wills. Part of the reason is that trusts usually involve ongoing relationships with bank officials, trustees and others who can provide solid evidence of the deceased owner’s intentions and mental state. A Family Wealth Trust that has been in place a long period of time is less likely to be challenged as having been subjected to undue influence or fraud. And because it is a very private document, the terms of the trust might not even be revealed to individual family members, allowing less opportunity for challenges to its provisions.

A Family Wealth Trust also avoids the painful ordeal of “living probate.” This is what happens when a person is no longer competent to manage their own property, whether because of illness or for other reasons. Without a Family Wealth Trust, a judge must examine whether you are in fact incompetent, and all of the embarrassing details of your incompetence will be dragged out in court. The judge will appoint a guardian - perhaps someone you would not want to manage your affairs. Guardians act under court supervision and often must submit detailed reports, meaning that the process can become quite expensive.

With a Family Wealth Trust, your designated trustee takes over management of trust property and must manage it according to the explicit instructions you put into the trust document when you created it. The terms typically set standards for determining whether or not you are competent to manage your own affairs. For example, you may specify that your doctor must declare that you can no longer manage your financial and business affairs.

## MANAGING ASSETS, EASING TAX BURDENS

Family Wealth Trusts also provide a way for beneficiaries to receive the guidance of professional asset managers. A bank may be named as a Successor Trustee or Co-Trustee, allowing an experienced trust department to manage the assets.

Of course, eliminating or reducing taxes is one of the primary goals of estate planning. Trusts allow for a highly flexible approach to taxes. Income taxes can be slashed by transferring income-producing assets to a recipient in a lower tax bracket. Through the use of trusts, the state and federal government's estate tax exclusions can be doubled, without the filing of an estate tax return (unless the decedent had more than the respective state or federal applicable exclusion). And some trusts are a prudent destination for annual gifts that fall within the government's tax-free gift allowance.





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## ARE THERE DISADVANTAGES TO A FAMILY WEALTH TRUST?

A trust may not be needed by all individuals or families. Depending on the terms, trusts can result in some loss of control.

Also, it is important to transfer all titled property into the trust on a regular basis to keep it current. Property outside the trust is part of the individual's estate, and will trigger the probate process you hoped to avoid by creating the Family Wealth Trust. Formal transfers of property into the trust are required even when you and the trustee are the same individual.

A Family Wealth Trust costs more than a will to create, although it saves large amounts later through its probate-avoidance feature. Deeds will be necessary for transferring real property into the trust, and that will also involve some additional expense. Also, attention must be paid to keeping the trust current. That means making sure all property is in the trust, and adjusting it for changed circumstances; for example, after the birth of a child or the dissolution of a marriage.

If these seem like minor disadvantages, you're right. For most people, the attention to details and initial expense involved in setting up a Family Wealth Trust is worth the significant benefits that accrue later to family and other beneficiaries: the avoidance of probate, the tax advantages, and the preservation of privacy and independence.

For current estate tax, gift tax, & income tax figures, please visit our website at [www.woodlegallgroup.com](http://www.woodlegallgroup.com) or contact our office at (626) 898-9195.

## ABOUT THE ACADEMY



This report reflects the opinion of the American Academy of Estate Planning Attorneys. It is based on our understanding of national trends and procedures, and is intended only as a simple overview of the basic estate planning issues. We recommend you do not base your own estate planning on the contents of this Academy Report alone. Review your estate planning goals with a qualified estate planning attorney.

The Academy is a national organization dedicated to promoting excellence in estate planning by providing its exclusive Membership of attorneys with up-to-date research on estate and tax planning, educational materials, and other important resources to empower them to provide superior estate planning services.

The Academy expects Members to have at least 36 hours of legal education each year specifically in estate, tax, probate and/or elder law subjects. To ensure this goal is met, the Academy provides more than 40 hours of continuing legal education each year. The Academy has been recognized as a consumer legal resource by *Money Magazine*, *Consumer Reports Money Adviser* and Suze Orman in her book, *9 Steps to Financial Freedom*.

## ADDITIONAL REPORTS

Request any reports of interest to you or your family. Simply call our office at (626) 898-9195 or visit our website at [www.woodlegallgroup.com](http://www.woodlegallgroup.com).

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