

PRACTICAL NEWS
COVID-19 News Source

April 2020

Estate Planning and COVID-19

In these critical weeks, you may have questions or wish to change or develop your estate plan and documents. We are working remotely and remain available to serve you, whether you are an existing client or wish to become a new client. This event has caused uncertainty over many procedural issues and brings new changes every day, but we actively monitor these changes and adapt as needed.

Remote Capabilities

All of us, attorneys and staff, have remote capabilities, which assist in our ability to provide services. We can meet with you remotely by telephone or internet. Internet options include Zoom, Skype and FaceTime.

Wills, trusts and healthcare proxies can be validly signed in your home with a minimum of two independent witnesses – and we can assist by being connected to you by phone or internet while signing the forms. Notaries are not absolutely required for any of these items in New York.

Notaries are still required to validly sign powers of attorney, and we may be able to notarize remotely, though current procedures require a fair amount of steps and some technology on both ends. Governor Cuomo continues to issue executive orders designed to make accomplishing legal tasks easier and we check daily for new developments in remote notarization and related issues.

What you can do from home

Important documents you should check:

- **Healthcare proxy** and HIPAA waiver, which may or may not contain advance directives (living will) about care you do or don't want if your medical condition becomes terminal and you are unable to communicate your wishes yourself. The proxy appoints one person, and perhaps a successor, who can make medical decisions for you if you are unable to do so. While having an original in hand is optimal, your medical providers may also be willing to accept a copy of the signed original.

- **Durable Power of Attorney.** You, as principal, appoint one or more persons as agents to act for you in legal and financial matters, especially if you cannot do so, but also at other times if desired. Many large banks and brokers prefer that you sign their own power of attorney form, and without that special form, your agent may have to work extra hard to get your bank or broker to accept the New York statutory form. Your bank or broker may have the form available online to print and execute with a notary. Your agent will often need the original document or perhaps a certified copy in hand to offer to any person or business to transact business for you. It is important to understand that, leaving aside certain powers of attorney governed by foreign law, the powers granted terminate at the death of the principal.

We retain during the "lockdown" special limited access to our office files and vaults. If you require originals or certified copies of the above documents, please contact us and we will endeavor to send them to you within a reasonable amount of time. In many cases, but not all, copies can be provided to you quickly via email.

Take a moment to check on beneficiary designations – these are easy to overlook and can easily become out-of-date or be mistaken. If you've had life changes over the last few years, such as a new spouse, divorce or new children, make certain all of your designations match your current circumstances and that your designations are truly consistent with your overall estate plan.

- **Beneficiary designations on retirement accounts** - Review your 401K, IRA and deferred compensation beneficiary designations, which should be on file with your plan administrators.
- **Beneficiary designations on life insurance** - Review any beneficiary designations on your life insurance policies, which should be on file with the insurance company, or group life policies you hold via employment, which may be on file with the insurance company or your employer.
- **Beneficiary designations for transfer-on-death accounts** - Review any beneficiary designations you may have signed for bank and brokerage accounts or for certain closely-held entities, which should be on file with the bank or brokerage house or company management.

Planning Opportunities

For those who have been considering certain types of lifetime trusts or gift transfers, new lower interest rates and a drop in market values offer opportunities to make a variety of transfers and intra-family loans that may not have been as attractive before.

Please contact any of us to discuss issues old or new. We will always be available to discuss your planning needs and prepare new documents.

CONTACT US

Donald P. Perry, Trust and Estates Chair
(212) 841-0520 | dperry@phillipsnizer.com

Michael W. Galligan, Partner
(212) 841-0572 | mgalligan@phillipsnizer.com

Maura Murphy, Partner
(212) 841-0509 | mmurphy@phillipsnizer.com

Richard J. Duffy, Partner
(212) 841-0507 | rduffy@phillipsnizer.com

Neil C. Kleinhandler, Partner
(212) 841-0769 | nkleinhandler@phillipsnizer.com

Tiberio Schwartz, Special Tax Counsel
(212) 841-0568 | tschwartz@phillipsnizer.com