

Changes in Arizona Trust Law Requires Attention

In January 2009, Arizona adopted what is called the *Arizona Trust Code*, found in Title 14 of the Arizona Revised Statutes. With these new laws has come changes as to how a trust must be created, administered, the types of legal documents that must be prepared, and depending on the case, the need for assistance from an experienced attorney in trust law.

What is Trust Administration?

Trust administration is the process by which a Trustee or Successor Trustee must follow the express terms of the trust and corresponding law when a Trustor or Trustee either dies or becomes incapacitated. Inherent in this administrative work, includes a variety of actions such as (1) distributing trust property; (2) filing estate tax and income tax returns; (3) providing notice to beneficiaries; (4) collecting and inventorying trust property; (5) paying off creditors; (6) appraising property; and (7) accounting for all of the Trustee's actions, just to name a few.

What remains the same even under these new laws governing trusts is that a Trustee is a type of *fiduciary* (not to be confused with a Licensed Fiduciary). Although there are many rules governing a fiduciary's conduct, suffice it to say that a Trustee (fiduciary) must always follow the three general rules of (1) conforming their conduct to that of a Prudent Investor; (2) not taking any action that is unreasonable under the circumstances; and (3) not acting outside of their statutory powers.

So what actions will the Trustee need to do?

When a Current Trustee or Trustor dies, the Successor Trustee must inform all beneficiaries of this change. Based on the circumstances, a beneficiary may be entitled to an entire copy of the trust or only relevant portions. The Trustee must then take many other actions including establishing their authority to act through a Certification of Trust. And, then the Trustee will then need to take control of trust assets, which may require a distribution of property, investment of trust property, or simply changing the title to the trust assets.

In those instances where a Settlor (the person who creates the trust) designated that the trust assets must be divided between an A and a B trust, the Successor Trustee will need to appraise assets, allocate the assets between the A and B trust, fund the A and B trusts, and file the correct estate and income tax forms.

Deason Law Firm
November 2009

Member of NAELA:
National Association of
Elder Law Attorneys



Finally, there are times when a Trustee may choose to *resign* or becomes *incapacitated* and can no longer administer a trust. In those instances, it is important for the Successor Trustee to review the provisions of the trust to understand what actions are required to be performed. Although a daunting task, there may even be times when a Trustee can administer a trust without an attorney. However, this can be like "*walking blind through a minefield*". And so, for the vast majority of Trustees, legal counsel is necessary to prepare administrative documents, advise the Trustee of the legal procedures and actions required, and explain to the Trustee how the trust provisions generally work. If you are interested in discussing these issues or others regarding how a trust would be administered under the new Arizona Trust Code, call (928) 783-4575 to schedule an appointment with Robert M. Way, Esq.

Don't Miss It

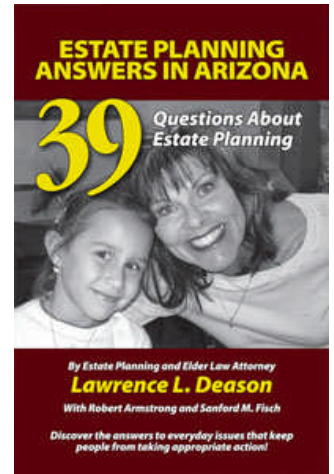
Annual Client
Family Seminar
Hawaiian Luau
Friday,
November 6th
At 5:00 pm.
Held at the Yuma Civic Center
1440 Desert Hills Dr.

Call 783-4575
Seating is Limited

Estate Planning Attorney, Larry Deason of the Deason Law Firm recently published an estate planning book entitled "***Estate Planning Answers in Arizona – 39 Questions About Estate Planning.***" Deason co-authored the book with nationally known estate planning attorneys Robert Armstrong and Sanford M. Fisch, founders of the American Academy of Estate Planning Attorneys.

"Our world is becoming more complicated by the day and it is difficult for consumers to know what type of planning is most appropriate for their family," explains Deason. "The book was created to take confusing planning concepts and make them easy to understand. Written in a practical question and answer format, it will give consumers greater knowledge and allow them to make better decisions that will impact their families for generations to come."

For a copy of the book or more information about the Deason Law Firm visit us online at www.deasonlaw.com or call (928) 783-4575, Estate Planning... It's What We Do!



Larry Deason

At the Deason Law Firm, we are committed to building lifelong relationships with our clients and their families. We will work with you to customize your unique estate plan to protect, preserve and pass your legacy to your family and loved ones exactly how you desire. To eliminate the risk of planning, all our estate plans come with a 100% service satisfaction guarantee. It's very simple - estate planning is what we do... and we look forward to your family joining our family.



Robert Way

This is a complimentary, educational newsletter. If you are NOT interested in receiving this information in the future, please contact Mary at 783-4575.

PRESORT STANDARD
U.S. POSTAGE PAID
PERMIT 200
YUMA, AZ. 85364

Deason Law Firm
Estate Planning... It's What We Do!
242 W. 28th Street, Ste. A
Yuma, Arizona 85364
Phone: 928-783-4575
Website: www.deasonlaw.com
E-Mail: info@deasonlaw.com