

## WHY DO ESTATE PLANNING?

### 1. Family succession and protection:

You can plan during your life for succession by your family to your assets. You can arrange this as you wish and you can go on benefitting as much and as long as you wish.

**Trusts** and **Foundations** are the solutions used for this.

### 2. Ongoing control:

You may wish to ensure that, whatever plans you make, you will keep control as long as you wish over your assets, including your companies and businesses, and that those whom you wish will do so after you.

**Special forms of Trust** (sometimes combined with a Limited Partnership) and **Foundations** are the solutions used for this.

### 3. Asset Protection:

By transferring your assets to a Trust or Foundation in an appropriate jurisdiction with appropriate law, there will be protection from claims by your creditors (if any), if their causes of action arise after a stated period of time following the creation by you of the Trust or Foundation and the transfer of property to it.

Trusts and Foundations may also be used to prevent claims following divorce and to prevent foreign laws of succession to your assets applying.

**Trusts** and **Foundations** are used for this purpose.

### 4. Avoidance of Probate:

Probate is the piece of paper issued by the Court to give the executors of your Will authority to act.

The general rule is that the law of your domicile (the country or state in which you intend to live permanently) govern your Will.

However, if you have real property in other jurisdictions, it is the laws of those jurisdictions which governs the transfers of such real estate.

If you have assets situated in many jurisdictions, you may need to obtain in those jurisdictions either official approval of the Probate from the jurisdiction of your domicile or new Probates issued in those jurisdictions. This process can be costly and time consuming.

If, during your life, you can create a **Trust** or **Foundation**, often combined with a **company**, to act as the "umbrella" for these assets, these problems can be overcome.

In this respect it is necessary to look carefully first at any taxation implications regarding the transfer of the assets and the cost of doing so.

**5. Legal mitigation of taxation:**

Planning by the use of **Trusts** and **Foundations** may legally mitigate exposure to both present and future taxation.

**6. The need for a “back door”:**

Please remember that all good estate planning will seek to provide flexibility to meet changes of law or circumstance and changes in your wishes and needs as well as the ability to undo or change the solutions you have adopted.

**NOTE:** This Memorandum is provided for your assistance but you should always take professional advice before acting. Circumstances and needs differ considerably from one person or family to another.

**This Memorandum was last updated on 30<sup>th</sup> July 2015**