



## How Asset Protection Trusts Really Work

December 2019

In California, if you establish a trust for yourself (also known as a “self settled trust”), your creditors can still come after those assets. However, when a trust is established for you by someone else, then it is referred to as a “third party trust” and creditors are unable to attach to those assets. Therefore, while you may not have creditor protection over the assets that are in your own living trust, you can create asset protection trusts for your loved ones (children, grandchildren, etc.) so that the assets you leave to them would be protected from their creditors in the event of a lawsuit or any other liability. On the other hand, if you leave assets to your beneficiaries outright, the inherited assets could be lost to divorce or creditors.

Asset protection planning through a third party trust is extremely important for a number of reasons. First, when we leave a significant sum of assets to our beneficiaries outright, it is very likely that those assets will become commingled with the beneficiary’s spouse. To “commingle” assets means to combine the assets in a joint account with the beneficiary’s spouse and, under California law, the inherited assets would be treated as belonging 50% to your beneficiary, and 50% to your beneficiary’s spouse. And if there is a divorce, you beneficiary will walk away with 50% of the inheritance, and the divorcing spouse will end up with the other 50% -- a very undesirable outcome.

Moreover, when we leave assets outright to a beneficiary, those assets become part of the beneficiary’s personal estate. If the beneficiary is involved in a lawsuit, an accident, or any other form of liability, the creditors could potentially attach to all of their assets, including those assets they’ve inherited from you.

By contrast, when you leave the beneficiary their inheritance in the form of an asset protection trust: (1) the assets cannot be commingled with a spouse because they are held in a trust fund for the lifetime benefit of the beneficiary; and (2) the assets cannot be attached by creditors because they are treated as belonging to a separate trust, and not the individual beneficiary.

If divorce protection or creditor protection is important to you, consider meeting with one of our estate planning attorneys to discuss how to establish an asset protection trust for your beneficiaries. Call our office at (714) 282-7488 to schedule a consultation.



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# Gift Tag DIY

## Personalized Gift Tags”

- ◆ Gather Green Paint Color Swatches
- ◆ Get thick tag paper and circular paper protectors from the stationary aisle in your local department store
- ◆ Twine in whatever color you like
- ◆ Glue and or Tape
- ◆ Sharpie to write names on the tags



This is a fun and simple way to make your Christmas gifts stand out!

## *Peanut Butter-and-Jelly Linzer Cookies*

For full instructions:

<https://www.southernliving.com/recipes/peanut-butter-jelly-linzer-cookies-recipe>

### Ingredients

- 1 cup unsalted butter, softened
- 1/2 cup granulated sugar
- 1/2 cup packed light brown sugar
- 1/2 cup creamy peanut butter
- 1 large egg yolk
- 1 teaspoon vanilla extract
- 3 cups all-purpose flour
- 1/2 teaspoon kosher salt
- 1/2 teaspoon baking powder
- 1/2 cup powdered sugar
- 1/2 cup strawberry jam

### DIRECTIONS

- Step 1: Preheat oven to 375°F with oven racks in the top third and bottom third of oven. Beat butter, granulated sugar, brown sugar, and peanut butter with an electric mixer on medium speed until smooth, about 1 minute. Add egg yolk and vanilla, and beat on low speed just until incorporated. Whisk together flour, salt, and baking powder, and gradually add to butter mixture, beating on low speed just until incorporated.
- ◆ Step 2: Place dough on a well-floured surface, and roll to 1/4-inch thickness. Cut dough with a 2 1/2-inch round cutter. Gently reroll scraps once, and repeat process with round cutter.



Place half of the dough rounds on parchment paper-lined baking sheets. Using a 1-inch star-shaped cutter, cut out and remove dough star shapes from the center of the remaining half of dough rounds. (Reserve and bake dough star cutouts for later, if desired.) Transfer dough rounds with star cutouts removed to lined baking sheets.

- ◆ Step 3: Bake cookies in preheated oven until cookies are set and beginning to brown, 12 to 13 minutes, switching pans top rack to bottom rack halfway through baking. Transfer pans to wire racks, and cool cookies completely, about 30 minutes.
- ◆ Step 4: Sift powdered sugar over cookies with star cutouts. Spread 1 1/2 teaspoons jam on 1 side of remaining cookies. Place a star cutout cookie, powdered sugar side up, over each jam covered cookie, and gently press.

## *CAN MY CHILDREN INHERIT MY PROPERTY TAX RATE?*

Most of you are familiar with Proposition 13, which was enacted in 1978 and limits property tax rates to 1% of the value of the home based on the value of the property at time of purchase (as opposed to the fair market value of the home).

What many people don't know is that Proposition 13 is applicable to every piece of property you purchase in California – not just your primary residence. This includes rental properties, commercial buildings, and second homes. Most people are also unaware that you can pass on your property tax rate to your children after death. That's right-- your children can inherit your Proposition 13 property tax rate (thanks to another proposition known as Proposition 58).

However, after your death, there are many traps in place to cause the children to lose Proposition 13 if they don't conduct the transfer properly. For instance, if there are two children, and the only asset in the estate is a \$600,000 property, and one of them wants to inherit the home and buy out the other's interest – the property will be reassessed because there are not sufficient cash assets in the parent's trust to allow the home to wholly pass to one child while allowing the other child to inherit cash.

The lesson here is to be careful when dealing with property transfers after death. Our attorneys are well versed in Propositions 13 and 58, and we have solutions to allow your children to inherit your property tax rate, without reassessment, even in scenarios such as the one just described. The most important thing to remember is to seek legal counsel after the death of a loved one to ensure that Proposition 13 isn't inadvertently lost.



## Remember to Sign Up for Our Free Seminar!



We regularly conduct a free estate planning seminar designed to teach about the benefits of creating an estate plan. The seminars are held on-site at our Anaheim office inside of our "classroom" and led by our very own James F. Roberts. We offer light snacks and refreshments to the attendees and the group is often small and intimate, which allows for questions to be asked comfortably and for a very relaxed environment.

Please encourage your loved ones to attend the seminar so that they may learn more about the estate planning process and benefits. We look forward to seeing you and your family, friends, colleagues and neighbors! Please share this event!

STAY TUNED FOR UPDATES ABOUT DATES FOR UPCOMING SEMINARS!!!

## What is in Season in December?



### DECEMBER

seasonal produce list

#### VEGETABLES

Broccoli  
Brussel Sprouts  
Cabbage  
Celery  
Garlic  
Kale  
Leeks  
Onions  
Parsnips  
Potatoes  
Pumpkins  
Rutabagas  
Sweet Potatoes  
Winter Squash

#### FRUIT

Apples  
Bananas  
Dates  
Citrus  
Pears  
Persimmons  
Pomegranate

ROOT KITCHEN



We hope that you have had the very best experience with our firm! And we hope that you would consider referring a friend that we may be able to help the same way we helped you! Getting a referral from a customer gives us a lot of pride! It shows us that we did a good job and our clients appreciate us!

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