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# The CPAs Role in Estate Planning and Administration

## A Practical 'How To' Guide

*By Michael B. Allmon, CPA*

It seems that most articles on introductory estate planning cover the basic techniques of estate planning and administration, but fail to discuss how to begin practicing in this field, and what the role of the CPA might be. This article will hopefully provide you with a practical guide to getting involved in estate planning and administration for CPAs.

### **What Basic Estate Planning and Administration Involves**

Estate planning can be divided into two topics: planning prior to death (premortem, or “traditional” estate planning) and post-mortem. Premortem is primarily about planning while post-mortem is more about administration, although both phases can include each. CPAs are needed in both phases of this planning.

Traditional planning involves asset transfer techniques (what method will be used to transfer assets at death). Such choices are not mutually exclusive and include the use of wills and the related probate process, living trusts, joint tenancy, life insurance, pension plans, etc. This planning can also focus on minimizing estate taxes (to the extent desired by the client) in light of the clients’ goals. For example, it’s possible to pay no estate tax by merely leaving all property to charity. Obviously, this might not be the goal of the client. Finally, traditional planning also involves liquidity planning (how to support the family, how to pay estate taxes, etc.).

Post-mortem planning can include trust funding considerations—such as how to achieve the goals of plans while attempting to simplify the situation, how to fund and minimize income tax consequences, etc. Also, there can be a potential to reduce estate taxes with post-mortem planning techniques. Because the estate tax laws are complex and continually changing, there may be ways to interpret the controlling documents with the laws at the time of death that may have not existed when the documents were signed. Administration involves applying the terms of the estate plan, generally at death.

The CPA has a unique background and relationship with each of our individual clients that allows us to efficiently serve our clients’ estate related needs. We can add value to our clients’ situations as a “gatekeeper” because we know our clients, and their unique needs and desires. Since we generally have contact with them at least once a year (when we prepare their personal income tax returns), we know changes in their personal situations that can require changes to estate plans. This knowledge can be used to benefit our clients either by suggestions that we might make for estate plan changes or for suggestions that the estate-planning attorney should be consulted. We also know when changes in plans should be considered, especially for changes in the law and as those relate to our clients’ situations. If we choose, we can review the documents periodically (not for legal content since we are not attorneys) for changes that may be needed. Note that disclosure may be needed in the engagement letter that we are not attorneys and our review is for changes in factual situations rather than interpreting the legalities of the document.

During the preparation of our clients’ tax returns, we have the perfect opportunity to be watching for administrative estate planning issues (for example, if we know that our client has a living trust but Forms 1099 are issued in an inconsistent name, we can assist in the correction of the inconsistent documents).

### **Getting Educated**

Estate practice is a technical field, and we cannot merely become educated in the field and then begin serving clients. While education in estate practice is a requirement, that education can take the form of formal classes (such as those

offered by the CalCPA Education Foundation), attending estate planning committee meetings (CalCPA has both a statewide committee as well as many local chapter committees), as well as self study. Once a basic education has been obtained, getting experience is more challenging.

Just as accounting is the “language of business” and each of us has taken classes to learn the language of accounting, we must first learn the “language of estate practice.” Once you have at least some understanding of the concepts involved in estate practice, there are several ways to get involved.

### **A Practical Approach to Getting Involved**

Because we are our clients’ most trusted adviser with respect to subjects involving personal finances, it’s not difficult for CPAs to become involved in estate practice.

Early on in my career I attended several estate planning meetings with other clients and their attorneys. I chose to do so at a reduced fee in the beginning. It quickly became apparent to me that my normal fee was appropriate. With the basic background I had obtained from these meetings, I began preparing estate and gift tax returns. I have always insisted that the clients’ attorneys review the returns when I am done (especially because the complexities in this area of practice often require such creative teams, and because I prefer to share any potential risks. It should be noted that I have encountered no problems as a result of the “team” approach).

From my experience, I determined that it would be helpful to have a more advanced education. Thus I obtained a Masters in Taxation degree and took just about every class on estates and trusts that was available. This is not necessary for basic entry into the estate-planning field, but is very helpful for more advance planning. I also became active in forming and participating in our local CalCPA estate planning committee, and formed a related statewide committee. The primary purposes of these committees are to educate and assist CPAs in the field of estate planning and administration. Joining your local CalCPA committees is essential to this process, in my opinion.

### **The CPA’s Role**

As CPAs, we’re often asked to serve as fiduciaries (executors, trustees, etc.) for clients and family members. I believe the CPA is uniquely qualified to serve in this capacity. My first article on this subject discussed the CPA as fiduciary (“**Natural Fiduciaries**” *California CPA*, Nov. 2001). Subsequent to that article, I discovered another role for the CPA in estate practice. I was serving as a trustee for a complex group of trusts and had resolved all of the administration problems for those trusts. I realized that the primary service that these trusts needed at that time was investment of the trust assets. My expertise as a trustee was no longer appropriate or necessary (except for the preparation of the income tax returns). With the assistance of the trusts’ attorney, I replaced myself (with a professional trust company) in the day-to-day role of trustee. Since I was the trustee, I entered into a contract indemnifying me and allowing me to retain the power to replace the new “trustee.” Effectively I had created a role for myself as a “trust protector,” a concept that was used in off-shore trust planning at that time but was not generally employed for domestic trusts. Further details on this concept can be found in my article “CPAs as Trust Protectors” in the March 2007 issue of the *Journal of Accountancy*.

My experience has taught me that a third potential role exists for CPAs: that of “trustee adviser.” Many of our clients choose to have family members as their fiduciaries. Of course these family members usually have no experience as a fiduciary and often do not have the time to devote to the role. I have found the role of advising these clients to be personally rewarding as well as an area of practice that we can also assist in.

As I have discussed in this article, the CPA is the natural fiduciary (executor or trustee) for our friends and clients. We can easily become involved in either, or both, estate planning and estate administration. Further, we can choose our roles from that of assisting with basic planning to more complex planning. Finally, we can then choose to serve our clients needs with respect to estate and trust administration as an advisor or as an actual fiduciary.

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