

## *Foulston Siefkin Estate Planning:* **ESTATE PLANNING PRINCIPLES**

Foulston Siefkin LLP's estate planning and probate practice group maintains a steadfast adherence to the principles discussed below. We believe these principles are essential in our firm objectively, efficiently, and timely providing the highest level of estate planning services to our clients at a reasonable fee commensurate with the expertise of our attorneys and the specific estate plan being implemented.

### ***Client-Driven Estate Planning Goals***

Clients and not their attorneys should make the fundamental decisions with regard to their estate plan. This requires the estate planning attorney avoid expediency by spending sufficient time with the client in order to understand the client's financial and asset situation, family situation, and personal values which impact upon the client's estate planning decisions. The attorney should then utilize such information in adequately advising the client of the "pros" and "cons" of the various estate planning options for consideration. Only in this comprehensive manner will the client make an informed decision and the attorney have assurance that the plan devised and implemented comports with the client's personal values and goals.

### ***Uncompromising Impartiality***

The attorney must remain totally impartial at all times. This requires avoidance of imparting the attorney's own personal values (unless explained as such) or considering the attorney's own economic benefit in the estate planning process. For example, an estate planning device or technique which is likely to increase attorney fees should not be preferred by the attorney if there is another suitable device or technique which can accomplish the client's goals without incurring such additional expense. Moreover, the client should be informed of numerous provisions which can be included in estate planning documents such as wills and trusts which benefit the client and estate beneficiaries by significantly reducing the potential need for legal advice in the administration of an estate or trust. Finally, in no circumstance should an attorney recommend that provisions be included in estate planning documents which are of singular benefit to the attorney, e.g., requiring the law firm be hired as legal counsel by the executor of an estate or trustee of a revocable trust following the client's death.

### ***Highest Level of Estate Planning Knowledge***

Our attorneys are dedicated to achieving and maintaining the highest level of knowledge of the estate planning process. Toward that end, three of the attorneys in our estate planning and probate practice group concentrate their practice almost exclusively in the estate planning, trust and probate areas. We have experience in serving as an adjunct professor in estate planning at three law schools, i.e., Washburn University, the University of Missouri-Kansas City, and the University of Miami (Florida). Our attorneys also have a record over the last ten years of making estate planning presentations at seminars for attorneys and certified public accountants sponsored by the Kansas Bar Association, Kansas Certified Public Accountants, and the American College of Trust and Estate Counsel, as well as authoring estate planning articles for the Journal of the Kansas Bar Association and other regional and national estate planning publications that is at the very highest level among Kansas law firms. Many of the attorneys in our practice group are listed in Best Lawyers in America and Missouri/Kansas Super Lawyers, and two have been elected to the prestigious American College of Trust and Estate Counsel. Our estate planning attorneys have also served as President of the Real Property, Probate and Trust Section of the Kansas Bar Association, two are currently members of the Executive Committees of the Real Probate, Property, Probate and Trust Sections of the Kansas Bar Association, and one is

currently a member of the Executive Committee of the Tax Section of the Kansas Bar Association. Other positions held by our estate planning attorneys include Chair of the Probate Advisory Committee of the Wichita Bar Association, member of the Kansas Estate Tax Advisory Committee to the Kansas Judicial Council, and President of the Kansas Chapter of the National Association of Elder Law Attorneys (NAELA). The foregoing professional and educational experiences have given our estate planning attorneys a level of knowledge we believe is not exceeded by the estate planning department of any other Kansas law firm.

### ***Commitment to Improvement of Estate Planning Laws***

As a consequence of the extensive involvement of our attorneys in estate planning and tax professional organizations, members of our firm have been at the forefront in the drafting of- and lobbying for- new Kansas statutes, revisions to Kansas statutes and regulatory changes impacting estate planning. Many of these new laws, statutory amendments and regulatory changes have been of significant benefit to estate planning professionals and their clients. Such laws include the Kansas Uniform Trust Code, the Kansas Durable Power of Attorney Act, statutes interpreting estate planning documents for Federal estate tax purposes, guardianship and conservatorship statutes, statutes facilitating the use of revocable trusts as probate avoidance devices, limited liability company (LLC) and family limited partnership (FLP) statutes, the Kansas Estate Tax Apportionment Act, the repeal of the Kansas inheritance tax, and the Kansas Estate Tax Act and regulatory changes simplifying the interpretation of the Kansas estate tax statutes. Our estate planning attorneys have also been instrumental in lobbying efforts which have successfully prevented the enactment of statutory changes which would have been detrimental to estate planning professionals and their clients. This commitment not only has provided our estate planning attorneys with a high level of expertise regarding Kansas estate planning and probate statutes, it has enabled us to be a leading firm in the implementation of estate planning techniques and the drafting of estate planning provisions maximizing the benefits accorded by these statutes and their regulatory interpretations.

### ***"State of the Art" Estate Planning Documents***

The level of estate planning sophistication the attorney can provide to clients is limited to the level of sophistication of the attorney's estate planning documents. This is because it is normally an inefficient, prohibitively expensive, and an error-prone process, for estate planning attorney to draft "from scratch" or "clone" from the instruments of other clients many of the myriad options necessary in providing high quality estate planning documents personalized for the client's particular needs. Consequently, our estate planning attorneys normally cumulatively invest on the average at least a hundred hours a year of their time in the development of estate planning provisions for wills, revocable and irrevocable trusts, powers of attorney and other instruments and agreements. This has resulted in our documents incorporating almost every conceivable variable or option which has arisen with any frequency in designing estate plans for literally thousands of clients. These documents not only provide the highest possible level of estate planning sophistication, they are logically designed, efficient in their assembly, and readable by clients. We believe this dedication has resulted in our estate planning documents being the highest quality available at any Kansas law firm.

### ***Informative Ancillary Documents***

To enhance our clients' understanding of the estate planning process, we believe it is important to provide them with informative ancillary documents. Thus, for example, we furnish clients with diagrams of their estate planning documents and outlines or letters explaining provisions in such documents. With regard to the vast majority of our clients who utilize revocable trusts as their primary testamentary instrument, additional informative documents include memos discussing trust funding strategies, "how to" outlines with regard to the funding of their revocable trusts, and letters explaining in detail the administration of the trust following their death. Such documents, memos and letters not only assist the client in gaining a better understanding of their documents and underlying estate plan, they lessen the need for on-going legal advice and resultant legal fees.

### ***Maximum Efficiency***

We are dedicated to providing the most efficient estate planning legal services possible. This dedication has resulted in the development of a form system designed for the fast and efficient computer assembly of estate planning provisions and options. It also includes assignment of estate planning work to attorneys and paralegals who can competently handle the particular assignment at the lowest hourly rate possible. To that end, our estate planning department has four highly trained certified legal assistants who concentrate in three separate areas of estate planning: estate and gift tax returns and probate administration; drafting estate planning documents, conservatorships and trust

administration; and advanced estate planning techniques (such as family limited partnerships) and trust funding.

### ***Thoroughness***

We believe that most "shortcuts" in the estate planning process should be avoided as they run a substantial risk of severely compromising the integrity or efficiency of a client's estate plan. Consequently, irrespective of the client and the nature of the client's family situation or estate, we are dedicated to thoroughness in all aspects of designing and implementing a proper estate plan. This means we review a client's current estate plan before contemplating any changes. It means we solicit information from the client or the client's financial adviser with regard to all relevant aspects bearing upon estate planning options. It means we spend sufficient time with the client to determine the client's goals and values. It means we explain the estate planning process in an intelligible manner to our clients and take sufficient time to inform the client of options relevant to the client's situation. It means we furnish the clients with additional materials such as diagrams and outlines where appropriate in order to assist clients in understanding their estate planning documents. It means we review estate planning documents with clients to ensure they are properly understood. Finally, it means advising clients following the execution of their documents as to any appropriate follow-up activities, such as the proper division of assets between spouses or the funding of revocable trusts to ensure that the estate plan is not compromised by improper titling or beneficiary designations. In short, we will not shorten the estate planning process merely for the sake of expediency.

### ***Timely Response***

We are committed to the timely implementation of our clients' estate plans. Thus, absent extenuating circumstances, from the time a client retains us to draft a will or revocable trust, our internal timetable is to mail the proposed document(s) to the client within the ensuing three week period. The process of each estate planning client is also monitored by our paralegals to ensure no unreasonable delays are incurred.

### ***No-Cost Initial Consultation***

In the vast majority of situations, we do not charge for an initial estate planning consultation if prospective clients decide not to proceed in utilizing our firm to do their estate planning. Exceptions include situations when specific advice of benefit to the prospective client is rendered even though no documents are drafted, e.g., advice with regard to maximizing resources in qualifying for governmental resource benefits such as Medicaid.

### ***Reasonable Fees; Flexible Fee Options***

Estate planning fees are based primarily on the hourly rates of our professionals involved in relation to the complexity of the task. We do not believe it is proper to charge fees based upon what we feel the market will bear or the ability of our client to pay. In addition to providing estate planning services based primarily upon hourly rates, we are also able in most estate planning situations to give our clients the option of providing estate planning services on a "fixed fee" basis. "Fixed fees" are primarily based upon our estimate of what the fee would be in implementing the chosen estate plan primarily at hourly rates plus any of the firm's "out of pocket" costs such as the cost of recording deeds.

## **Foulston Siefkin's Estate Planning and Probate Group**

Foulston Siefkin LLP, the largest Kansas law firm having offices exclusively in the state of Kansas, has more than 90 attorneys and is headquartered in Wichita, Kansas. The firm has additional offices in Kansas City and Topeka. The firm's Estate Planning and Probate Practice Group currently consists of eleven attorneys who collectively practice in all significant estate planning, probate and trust areas. Viewers are invited to click [here](#) for information on the Group's practice areas and attorneys, law summaries of estate planning areas of special interest, regional and national estate planning articles authored by Group attorneys, related links and other estate planning information which may be of interest.

This estate planning law summary above was authored by the firm's Estate Planning and Probate Practice Group. Provided as a service to viewers, the strategies discussed therein are not designed to be an exhaustive discussion of the subject matter. Moreover, the discussion is often Kansas law specific, and are subject to varying and changing federal and state laws. This document has been prepared by Foulston Siefkin for informational purposes only and is not a legal opinion, does not provide legal advice for any purpose, and neither creates nor constitutes evidence of an attorney-client relationship.

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## For Further Information

Foulston Siefkin regularly counsels clients on issues relating to Estate Planning and Probate. If you are interested in additional information regarding these matters, please visit our website at [www.foulston.com](http://www.foulston.com) or if you would like to discuss specific ways in which Foulston can help you, contact Tim O'Sullivan at 316.291.9564 or [tosullivan@foulston.com](mailto:tosullivan@foulston.com), or Stewart Weaver at 316.291.9736 or [sweaver@foulston.com](mailto:sweaver@foulston.com), or Matt Bish at 316.291.9729 or [mbish@foulston.com](mailto:mbish@foulston.com).

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Established in 1919, Foulston Siefkin is the largest law firm in Kansas. With offices in Wichita, Kansas City, and Topeka, Foulston provides a full range of legal services to clients in the areas of administrative & regulatory; antitrust & trade regulation; appellate law; banking & financial services; business & corporate; construction; creditors' rights & bankruptcy; e-commerce; education & public entity; elder law; emerging small business; employee benefits & ERISA; employment & labor; energy; environmental; ERISA litigation; estate planning & probate; family business enterprise; franchise & distribution; government investigations & white collar defense; governmental liability; government relations & public policy; healthcare; immigration; insurance regulatory; intellectual property; litigation & disputes; mediation/dispute resolution; mergers & acquisitions; Native American law; oil, gas & minerals; OSHA; privacy & data security; private equity & venture capital; product liability; professional malpractice; real estate; securities & corporate finance; senior housing & care; supply chain management; tax exempt organizations; taxation; trade secret & noncompete litigation; water rights; and wind & solar energy. This document has been prepared by Foulston Siefkin LLP for informational purposes only and is not a legal opinion, does not provide legal advice for any purpose, and neither creates nor constitutes evidence of an attorney-client relationship.