



*Providing creative and powerful wealth preservation solutions in a personal and compassionate environment.*

Personal

Financial

Estate

Asset Protection

Business

Tax and Corporate Planning

## ■ About the Firm

Shenkman Law is a boutique estate planning firm focused on the legal needs of high net worth individuals, professionals, owners of closely held businesses, and real estate owners and developers. Founded in 1989, the firm has offices in New York City and Fort Lee, New Jersey, and consults with clients in other states in cooperation with local counsel.

**Martin M. Shenkman, CPA, MBA, PFS, AEP, JD**

## ■ Services

We provide a range of comprehensive legal solutions, including estate planning and administration, corporate planning for closely held businesses, succession and asset protection planning, and more.

Planning is handled in coordination with your entire financial and estate planning team: CPA, Wealth Manager, Trust Officer, Insurance Consultant, Care Manager, etc.

- Wealth Preservation Planning
- Later Life Planning
- Estate Planning
- Estate Administration
- Wills, Powers of Attorney, Health Proxies
- Irrevocable Trusts
- Revocable Trusts
- Tax Planning
- Closely Held Business Planning
- Succession Planning
- Asset Protection Planning
- Plan Implementation
- Education of Heirs

## ■ Wealth Preservation Planning

Having a will to assure the distribution of your assets, or even an estate tax plan to minimize estate taxes, is only a part of the planning critical to protect your wealth during your lifetime, and to transmit it to your designated heirs. The optimal way to increase the safety of your wealth, and the likelihood of its effective transmission to future generations (or other heirs), is to take a broad multi-disciplinary approach to wealth preservation. Avoiding estate tax if your heirs dissipate their inheritance in a divorce is ineffectual. Improper investment planning can ravage an estate. An investment plan that is too conservative, or a spending rate that is too high, may not only jeopardize an intended bequest, it may undermine your own financial security. If you lack adequate liability insurance or asset protection, a lawsuit could similarly devastate your wealth. We help coordinate your overall planning team, or help you create a team if you don't have one. This assures that a broad and comprehensive approach is taken to preserving your wealth.

## ■ Later Life Planning

In 1960 the life expectancy for a male was 66.6 years. If retirement occurred at age 65, “later life” was not particularly long, or complicated to plan for. By 2010, the figure had increased to 76.2 years. Later life planning then could be expected to encompass more than a decade. By 2020 it is estimated that there will be over 6.5 million Americans age 85+. 90% of seniors have at least one chronic disease. Planning for the golden years is not as simple, or as short, as most anticipate. Later life planning is essential to assuring wealth preservation, but also that your wealth will be used to protect and help you. Creating a revocable trust and other documents to provide protection from elder financial abuse, and to enhance your ability to remain in control of your own financial decisions as long as possible, are but a few of the many steps later life planning may involve.

## ■ Estate Planning

We help you tailor a plan that best accomplishes your personal estate planning goals. Often this includes minimizing taxes (state estate taxes for clients living in decoupled states, federal estate taxes for larger estates, and income taxes for all clients). Estate planning may address protecting and distributing your assets. But estate planning is such a personal process that it varies often dramatically from person to person even if similar family structures or assets are involved. For some, addressing specific charitable goals is important. For others, passing a family business onto the next generation is critical. Religious, health and a wide range of other personal issues can be important. Because each situation is unique, we work closely with you to ensure that all arrangements consider not just the legal realities of your wishes, but your spirit and the context as well. We develop creative planning ideas tailored to meet your unique needs. Planning will vary based on the nature of a business, e.g.: closely held business, physician, real estate developer, sports star, and automobile dealer, among others.

## ■ Estate Administration

The loss of a loved one is a difficult and challenging emotional situation. It can bring a range of personal, legal, tax and other issues to the fore. We guide you to make sure that estates are administered as they were intended, and in a manner that minimizes personal antagonism and angst, taxes and other issues. We coordinate with your accountants, or recommend advisers, to have any necessary income, state estate tax, and federal estate tax returns prepared.

## ■ Wills, Powers of Attorney, Health Proxies

Whatever a family's size or circumstances, preparing the "core" legal documents to protect basic estate and personal needs is essential. These include:

- Will providing for disposition of assets, appointment of guardians, and addressing potentially a myriad of personal issues.
- Power of Attorney designating an agent to handle legal, tax and financial matters in the event you cannot do so. A power can be tailored to assure family members are provided for financially if you become incapacitated (adult children, a parent or elderly aunt, for example). If your wealth is moderate, a properly crafted power can be the most important dispositive document and tax minimization tool.
- Living Will, which is a statement of health care wishes. This can address a range of health challenges, religious restrictions, and more.
- Health Care Proxy to designate agents to make health care decisions.
- HIPAA Release to assure access to medical records even if no health care decisions are mandated under a health care proxy.
- Emergency Child Medical Authorization to designate someone to make medical decisions for a minor child if the parents or guardians are on vacation or otherwise unavailable.

All these documents may be central to your security. We help you to make these critical preparations, protecting your loved ones, and your assets, while offering valuable peace of mind.

## ■ Trusts

### Irrevocable Trusts

We work with you to design and to establish trusts tailored to your particular needs and wishes, taking into account business requirements, family specifics, and relevant risk factors. Tax savings and asset protection are only two of the many goals irrevocable trusts may serve.

### Revocable Trusts

Trusts should always take a holistic view of your unique circumstances. Many revocable trust plans are mere boilerplate documents sold to avoid the purported evils of the probate process. While it can certainly be prudent to avoid some of the issues raised by probate, the real problems for many families are inadequate planning, refusal to acknowledge and address interpersonal issues, and not following through on proper implementation. Using a revocable trust to "avoid" the costs and publicity of probate will be for naught if the real underlying issues are not dealt with. Revocable trusts can play a vital role, but they are rarely the panacea and general cure-all that some believe. Most important, the focus of using living trusts for probate avoidance detracts from other incredibly powerful uses of these instruments, namely to manage assets through your later years and thereby provide financial security and a legal safety net. Properly done, a fully funded revocable living trust, with appropriate checks and balances integrated, can be the ultimate estate planning tool to address health challenges.

## ■ Tax Planning

Estate planning has almost always been about minimizing the federal estate tax. However, tax planning has become more complex than ever before. For many families a careful balance of tax issues has to be achieved to actually minimize overall tax burdens, and this process can be far more daunting than merely the 40% federal estate tax, and state estate tax. Minimizing state and federal income taxes can be as important as minimizing estate taxes.

- Federal estate taxes may be a concern. Steps might be warranted to increase the likelihood of avoiding federal estate taxes, especially if Congress makes the rules harsher in the future. If your estate will be subject to a permanent 40% estate tax, planning is now essential.
- State estate taxes can be complex to plan for. The rules differ by state. While the costs are potentially significant and should be planned for, the maximum 16% state estate tax rate does not always justify costly planning that had been common when many people assumed they faced a combined 50% federal and state estate tax.
- Residency is where you are taxed for state income tax purposes. This can differ from domicile which is where you are taxed for estate tax purposes. Also, there are many exceptions. For example, regardless of where you reside or are domiciled, if you own real estate in a state with a state estate tax, that state will tax that real estate on your death. So the manner in which assets are held, residency, domicile, state income taxation and state estate taxation, all have to be considered by your planning team if you truly intend to minimize overall taxation.
- With the increase in income tax rates, and the 3.8% Medicare tax on net investment income, for some clients living in high tax states, capital gains could be taxed as high as 30%. The cost of a capital gain could exceed the cost of a state estate tax. Even for wealthier clients subject to a federal estate tax, but no state estate tax, the spread between the capital gains rate and the federal estate tax rate may be the smallest in history. The relationships of these various tax rates changes the planning dynamic, often in dramatic ways.

## ■ Closely Held Business Planning

Closely held businesses have a significant impact on the planning for individuals and families that own and oversee them. We work with you to be sure that your goals are carefully implemented, to address any unusual or complex estate planning, corporate, and other issues that might arise. Depending on the nature of the matters, we may work with your other advisers or recommend specialists to compliment your existing planning team.

## ■ Succession Planning

We help you consider, develop, and implement succession plans for your businesses, enabling smooth leadership transitions that involve minimal disruption. Closely held businesses have both an emotional and a financial impact on the families that own them, and we take pride in working with you to creatively balance a wide range of concerns.

## ■ Asset Protection Planning

Asset protection planning should not only be a concern of physicians. The litigious nature of our society always seems to grow. You should take steps appropriate to your wealth level, and risks, to protect your assets. At minimum, you should have your property, casualty and liability insurance reviewed periodically by an insurance expert to identify gaps, or the need for higher coverage limits. Most estate planning relies on trusts, but many trusts are not designed to provide maximum asset protection. Too often trusts provide for mandated distributions of income, distributions of principal at specified ages, or distribution standards that are to maintain a standard of living which might be reachable by claimants. A modern and more protective trust can be created in a trust friendly jurisdiction (the four leading states are Nevada, Alaska, South Dakota and Delaware) with an independent trustee, a trust protector, discretionary distribution standards, and other features. Modern trusts can be combined with your limited liability companies, and other entities and structures, to further enhance protection.

## ■ Plan Implementation

No matter how carefully designed, every plan requires skilled implementation and oversight to have the potential to succeed. Your work should not end with plan development or signing a document. We can work with you to see plans through implementation and ongoing operation. We also can, if you permit, work with your team to monitor your plan once they are in place to enhance the likelihood that the plan is functioning as designed. We recommend annual review meetings to accomplish this. The optimal implementation and monitoring of any plan is done by your estate and financial planning team meeting at least annually so that each expert can be assured that issues related to their area of expertise are addressed, and that the team overall is coordinated.

## ■ Education of Heirs

Estate planning should not only be about the transmission of wealth, but about the transmission of values. Involving children or other heirs in age appropriate discussions is vital to their development. Leaving the transmission of wealth until death is inadequate. We work with you, your heirs, wealth managers, and others to help guide children.

## ■ About

### Martin M. Shenkman, CPA, MBA, PFS, AEP, JD

Martin M. Shenkman, CPA, MBA, PFS, AEP (distinguished), JD, is an attorney in private practice in Fort Lee, New Jersey and New York City.

**Practice:** Practice concentrates on estate and tax planning, planning for closely held businesses, and estate administration.

**Writing:** Author of 43 books and more than 1,000 articles.

**Selected Awards:** The 1994 Probate and Property Excellence in Writing Award, the Alfred C. Clapp Award presented in 2007 by the New Jersey Bar Association and the Institute for Continuing Legal Education for excellence in continuing legal education. Worth Magazine's Top 100 Attorneys (2008). CPA Magazine Top 50 IRS Tax Practitioners (April/May 2008). "Estate Planning for Clients with Parkinson's," received the "Editors Choice Award" in 2008 from Practical Estate Planning Magazine. "Integrating Religious Considerations into Estate and Real Estate Planning," awarded the 2008 "The Best Articles Published by the ABA." New Jersey Super Lawyers (2010-15). Estate Planning for People with a Chronic Condition or Disability, nominated for the 2009 Foreword Magazine Book of the Year Award. 2012 recipient of the AICPA Sidney Kess Award for Excellence in Continuing Education for CPAs. 2013 recipient of the prestigious Accredited Estate Planners (Distinguished) award from the National Association of Estate Planning Counsels. Financial Planning Magazine 2012 Pro-Bono Financial Planner of the Year for efforts on behalf of those living with chronic illness and disability. Investment Adviser Magazine's cover April 2013 as the lead of their "all-star lineup of tax experts." June 18, 2015 delivered The Mortimer H. Hess Memorial Lecture at the New York City Bar Association.

**Academic Credentials:** Bachelor of Science degree from the Wharton School University of Pennsylvania, with a concentration in accounting and economics. MBA from the University of Michigan, with a concentration in tax and finance. Law degree from Fordham University School of Law. Admitted to the bar in New York, New Jersey, and Washington, D.C. CPA in New Jersey, Michigan, and New York. Registered Investment Adviser in New York and New Jersey.

**Charity:** Active in many charitable causes. Founded ChronicIllnessPlanning.org which educates professional advisers on planning for clients with chronic illness and disability. Written books for the Michael J. Fox Foundation for Parkinson's Research, the National Multiple Sclerosis Society, and the COPD Foundation. More than 50 lectures around the country on this topic for professional organizations, charities and others. More than 60 articles have addressed planning for those facing the challenges of chronic illness and disability. A comprehensive website, [www.chronicillnessplanning.org](http://www.chronicillnessplanning.org), has been created to guide both consumers and advisers.

# Law Easy

LawEasy simplifies complex legal “stuff” and presents it in plain English. Obtain insights and tips by topic, browse the forms database for useful documents, or search a comprehensive legal glossary to get the information you need in a way that makes sense. Webinars, powerpoints and a host of materials to help both the consumer and the professional adviser understand the complex world of law, with an emphasis on estate and personal planning, are presented.



## ChronicIllnessPlanning.org

When a family member faces a long-term illness, there’s a lot to think about. [www.chronicillnessplanning.org](http://www.chronicillnessplanning.org) offers answers and provides guidance to address a range of legal, financial, tax and personal issues. Materials are presented for professionals and consumers to help both work better together to protect the individual and family facing the challenges of chronic disease or disability.

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