



February 2005

Dennis M. Sandoval,
A PROFESSIONAL LAW
CORPORATION

*Protecting and
Preserving Wealth for
Future Generations*

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*Mr. Sandoval is the only
attorney in California
certified as a Taxation
Law Specialist and an
Estate Planning, Trust &
Probate Law Specialist
by the California Bar
Board of Legal
Specialization as well as
a Certified Elder Law
Attorney by the National
Elder Law Foundation*

Coming Soon!!!

Our Website at:

www.cal-elder-lawyer.com

Elder Law Newsletter

Dennis M. Sandoval Elected as Officer of Southern California Chapter of the National Academy of Elder Law Attorneys

I am proud to announce that I have been elected to the position of Secretary for the Southern California Chapter of the National Academy of Elder Law Attorneys. I will serve as Secretary for the balance of 2005.

I was also recently selected to serve on the Steering Committee for the Tax Special Interest Group of the National Academy of Elder Law Attorneys.

California Department of Health Services Releases Emergency Regulations for Recovery Against Life Estates

In what was an unexpected move (given assurances last year that officials at DHS were not going to abuse the emergency regulation process and that they were going to seek input from stakeholders regarding the content of new regulations) the Department of Health Services released new emergency regulations this month dealing with recovery against life estates.

Many practitioners are concerned about the expansive definition of life estate and its application against transactions that occurred many years ago. Several organizations, including the Southern California Chapter of the National Academy of Elder Law Attorneys and the California Advocates for Nursing Home Reform have objected to the content of these regulations, as well as the manner in which they were released.

Many elder law attorneys have made extensive use of occupancy agreements and irrevocable trusts with a right to reside in their Medi-Cal planning. It appears that a decedent who years ago employed a strategy that was perfectly legal at the time, will have the value of that life estate interest (as calculated under HCFA Transmittal 64) recovered against by the Department of Health

Services. In many instances that value would be substantial – for instance, the factor for the life estate for an eighty year is .43659. This means that the Department of Health Services could recover \$174,636 from the beneficiaries to a residence valued at \$400,000.

Because of concerns by Dennis Sandoval about potential recovery against a life estate, occupancy agreement or retained right to reside, our law firm ceased using all these techniques many years ago. For many of our clients, we have employed a strategy involving an irrevocable trust with a trust protector and a special power of appointment. This strategy allows for planning flexibility, security for the elder who is transferring his or her residence as well as the retention of valuable income tax advantages such as the retention of Section 121 and step-up in basis at death.

Can We Be of Assistance?

Dennis M. Sandoval, A Professional Law Corporation, specializes in estate planning (including probate administration and trust / will contests), asset protection planning, elder law (including qualifying for Medi-Cal coverage, conservatorships, and creation of Special Needs Trusts for disabled beneficiaries) and tax controversy work (including federal and state tax audits, appeals and litigation). All of your referrals will be handled promptly and professionally.

Mr. Sandoval is available to speak to your group or organization. Call (951) 787-7711 to schedule him to speak on any topic relating to estate planning, elder law, asset protection or taxes.

Upcoming Seminars / Classes for Professionals

Planning Traps for Gays and the Elderly Under the California Domestic Partner Rights and Responsibilities Act of 2003	4/9/2005	9 am – noon	University of California at Riverside Extension (UNEX) 3 hrs. Attorney CLE
The Basics of Medi-Cal Planning for Long Term Care	4/30/2005	8 am – 5 pm	UNEX 7.5 hrs. Attorney CLE
Naming a Trust as Beneficiary of a Retirement Plan: A Magical Mystery Tour; Federal Estate Tax Repeal Update and Recent Developments; Using a (d)(4)(A) Trust to Protect Benefits of Disabled Beneficiaries	5/12 – 5/15/2005	TBD	American Academy of Estate Planning Attorneys Eden Roc Resort & Spa Miami
Retirement Plan Distribution Rules: A Magical Mystery Tour; Federal Estate Tax Repeal Update and recent Tax Developments	5/19 - 5/22/2005	TBD	National Academy of Elder Law Attorneys Fairmont Hotel San Francisco
The Basics of Conservatorships in California	5/26/2005	Noon – 1 pm	Kaiser Hospital Riverside
The Mechanics of Drafting First Party and Third Party Special Needs Trusts in California	6/18/2005	9 am - noon	UNEX 3 hrs. Attorney CLE
Maintaining and Maximizing Government Benefits for Special Needs Beneficiaries: The Basics of Administering a Special Needs Trust	6/18/2005	1 pm – 4 pm	UNEX 3 hrs. Attorney CLE
Retirement Plan Distribution Rules: A Magical Mystery Tour; Federal Estate Tax Repeal Update and recent Tax Developments	9/29 - 10/2/2005	TBD	National Academy of Elder Law Attorneys Sheraton New Orleans New Orleans
Topics to be Determined	10/6 – 10/10/2005	TBD	American Academy of Estate Planning Attorneys Catamaran Hotel San Diego