



A Guide to Choosing Your Bay Area Estate Planning Attorney

Expert Tips + A Checklist To Narrow Your Choices

Introduction

You may already have some general ideas of how you want your estate to be passed along some day. Now you need the right estate planning expert to help you sharpen those ideas and create a plan that not only looks good on paper, but will actually work when the time comes.

Planning for everything you own and everyone you love

Many people would rather not think about estate planning, especially those with estates worth millions of dollars. It seems like it will take a lot of effort, a lot of difficult decisions -- and who knows what kind of legal work is needed to make your plan hold up when you aren't around to explain what you really wanted?

On the other hand, your estate plan involves everything you own and, more importantly, everyone you love. You can't leave anything to chance.

The right estate planning attorney can smooth out those imposing twists and bumps in the road. You stay in the driver's seat, of course. It's your wealth that you are protecting, and only you can say how you want it to be distributed someday. But nothing beats a good navigation system when you are driving into unfamiliar territory.

Fine, but how to choose?

So: How do you decide which estate planning attorney can best help you? You could pick whoever appears at the top of Google search results or other listings. But let's start with some basic ways to compare.



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Key Criteria (and Things to Avoid)

Education

You need someone who has learned about finance as well as law.

Make sure they understand the use of family limited partnerships and the many different types of trusts available.

Experience

Any attorney can call himself an estate planner, even if he has no qualifications or experience in estate planning.

Look for an attorney with at least 7 to 10 years of experience in estate planning, probate, and trust law. Also make sure that the attorney has experience with high net worth clients. If your estate involves international holdings or a non-citizen family member, seek out someone with experience in those areas, too.

Dedication

An attorney simply cannot handle divorces, traffic tickets, and other matters and still be an estate planning expert, too.

Estate planning is a complicated and sophisticated area of legal practice. Your attorney should devote his or her full time to this area of the law.

Personal involvement

Beware if someone tries to hand you an off-the-shelf plan that only requires filling in blanks.

Your estate plan should be crafted for your unique circumstances. You need an attorney who will listen, and who can explain the law clearly. Attorneys used to be called “counselors at law,” and the counseling aspect is still important. You want someone who can help you figure out who should be your trustee, who should make health decisions, how to untangle the complex relationships of children from prior marriages, and more. Business ownership and immigration status require even more important decisions. You won’t get much help from a one-size-fits-all stack of forms.

Credibility

If other people and independent organizations have dealt with the attorney and given approval, you can have a much higher level of trust.

The Law Offices of Janet Brewer delivers all you need in the above areas, and more. In addition to my law degree, I hold an MBA and a Masters of Laws degree in Taxation. I not only have the education, but I have educated others as an Instructor in the Certified Financial Planner program at UC Santa Cruz. I have practiced California estate, gift-planning, and probate law exclusively since 1991. I have made a specialty of estate planning for high-net-worth clients. Others may do estate planning as a sideline or only on rare occasions.

I am a California certified estate planning and probate specialist, one of fewer than 200 practicing in Santa Clara County and fewer than 2,000 practicing in California (out of almost 200,000 lawyers statewide).

I am a founding member of WealthCounsel, a collaborative network of attorneys that offers document drafting software. I also am a member of the Society of Trust and Estate Practitioners, and of the International Network of Boutique Law Firms. For five years in a row I have been named to the Northern California Super Lawyers list, an independent lawyer ratings service owned by Thomson Reuters.

On Avvo, a website that helps consumers choose lawyers and doctors, I have a "superb" rating of 10.0. Please see the last section of this guide for more details on my qualifications.

Listening skills

I listen. My goal is to create the plan that effectively carries out your wishes.

Here is what some clients say about me:

"Having a professional is such a different experience than the online quick program, or the Office Max software that helps you complete a generic will or living trust. I would recommend her to anyone thinking of protecting their assets from probate, planning the future of how they'd like their wishes to be carried out." -- Travis H., July 30, 2009

"Janet helped me to resolve a very difficult situation with a family member who was sadly appointed as an executor and who fell off the radar screen for more than two years with a substantial amount of money to be distributed to his siblings. Janet was brilliant and efficient came through very admirably and I felt so much better with her at my side and I greatly benefited from her expertise. The best part was that I didn't need to talk with my siblings who drove me crazy during the whole process. I highly recommend her for any trust related documentation or issues." -- Karen A., December 13, 2007

How It Works

Step 1: Hire the best advisor

The first step is to pick the best advisor and commit to working with them. In my area of expertise, I give away free tips. I regularly post free answers to questions on Avvo; I offer free guides in our online Resource Room. And I publish free tips here in the Probate, Trusts, and Estate Law Blog just about weekly. If you need answers and advice specific to your situation, please [get started at my website](#).

Step 2: Gather personal data and financial information

This is your estate plan, so I'll need to review your personal data and your financial information, and discuss a potential plan to meet your goals and objectives. I'll need to learn about your family and how the various members handle money. I understand that this is sensitive information, something not always easy to talk about. I'm not shocked by any characters lurking in your family tree – we all have our fair share of them.

Step 3: Discuss goals and values

You have built up a large estate, and you probably have very specific wishes that you want someone to carry out. Before I can recommend any course of action, we need to meet in person so that I can learn about you, your values, what you are trying to accomplish and, maybe most importantly, what you want to avoid. When I am creating a plan for both spouses, it is an absolute requirement that both spouses meet with me.

Focus areas in an estate planning engagement

Here are some of the questions I ask the first time we get together to discuss your estate plan:

- Did you have any prior marriages?
- Have you signed any pre- or post-marriage contracts?
- Do you have an “umbrella” liability insurance policy?
- If any children are under 18, have you decided who would be their guardians?
- Is anyone else dependent on you for their support?
- Do you already have a will or trust?

- How much is your primary residence worth? How much equity do you have in it?
- What other properties do you own?
- How much do you have in cash accounts (CDs, savings, checking)?
- How much do you have in stocks, bonds, retirement plans, investment accounts?
- Do you have any business interests?
- Have you ever filed a gift tax return?
- Have you ever filed an estate tax return?
- Do you wish to leave money or assets to charitable or religious causes?
- Are you concerned about protecting heirs from creditors and financial predators?
- Are you concerned about providing for your grandchildren's education?
- Do you wish to prevent anyone from receiving a portion of your estate?
- Do you wish to make any provisions in your estate plan for your pets?

The more I understand about your circumstances, the better I can educate you about your choices and guide you so that your family members won't need to make stressful decisions in trying times. You will have the peace of mind of knowing that you have "done right" by your family.

Non-legalese

I provide common sense solutions and avoid legal jargon where possible. I don't expect you to be experts in estate planning, and I don't talk down to you if you aren't. You'll be under no obligation at all to continue after our initial session. If you do want to move forward to a real plan, we'll make a preliminary estimate of the fees for "foundational" planning. Advanced planning may require much more extensive preliminary work, such as reviewing income tax returns and consulting with your financial advisors, for which I would charge a "review" fee.

We'll probably have several meetings: One to answer your basic questions and for me to get to know you, one or two more to design some detailed solutions. I also will need your permission to discuss the design proposal with your other professional financial and tax advisors. Finally, we'll meet to review the details. I will carefully explain each document and point out what the documents do for you and how they interact with each other. If you want any changes, we'll review them at a Plan Signing Meeting.

When the plan meets with your approval, I will have "signature-ready" documents prepared for you within 24 hours.

Weighing the Cost

Total fees can vary quite a bit, depending on what kind of plan each client decides to implement. As nice as it would be to quote a precise number before we meet, it's not realistic. I can, however, give you some general idea of what to expect.

The typical fees for a single individual range from \$2,100 for a simple estate to \$5,000 for a complex estate. For a married couple, typical fees range from \$3,200 to \$9,000. The typical fee includes funding the client's personal residence, brokerage accounts, additional real estate, changing beneficiaries on life insurance policies, and changing beneficiaries on retirement accounts.

I also offer consultation and services at \$410 an hour.

The typical retainer is one-half of the estimated fees, with the balance due when your documents are ready to sign. We make corrections and minor changes for up to 45 days after your documents have been signed, without further charge to you.

I realize that weighing fees can add to the stress of planning. It's easy to make side-by-side comparisons when buying cars, TV sets or refrigerators. Valuing a service requires a different approach. It's not a question of how many forms need to be filled out, but of expertise. It's the difference between going to a skilled surgeon for a life-saving operation, or going to someone fresh out of medical school.

Remember that when you work with me, you are getting a personalized plan, not a cookie-cutter product. The details of your plan will mesh with the details of your life and of your family.

Your entire estate is on the line. You need someone who understands what you want. More importantly, you want someone who knows what you need and will give you the facts even when they may not be pleasant. We can explain ways to treat your children "fairly" even if you aren't treating them "equally" so they'll still want to share Thanksgiving, birthdays, and special holidays together – as a family.

Note too that some attorneys who offer to create living trust for a flat fee do not include wills, health care powers of attorney, and other documents, adding "a la carte" fees for the extra documents.

Checklist

Here is a checklist to help you compare qualifications:

How many years' experience does your estate planner have?

- Fresh out of law school
- Established attorney, but little experience in estate planning
- At least 10 years exclusively in estate planning
- At least 15 years exclusively in estate planning

What kind of sophisticated estate planning tools has the attorney used before?

- Irrevocable life insurance trusts
- Family limited partnerships
- Qualified personal residence trusts
- Limited liability companies
- None of the above

What kind of credentials does your estate planner have?

- Certified by the State Bar of California Board of Legal Specialization to provide legal service in estate planning, trusts, and probate law
- Masters of Laws degree in Taxation
- MBA
- Member of International Network of Boutique Law Firms
- Super Lawyer rating from Thomson Reuters
- None of the above

Who will you actually work with on your estate plan?

- The most experience attorney at the law firm
- A junior partner or other staff member
- Not sure

Does your estate planning attorney have any experience with international estates?

- Has never had to deal with one
- Has handled international estates
- Not sure

What is included?

- Wills, health care powers of attorney and related documents are included
- Those documents cost extra
- Not sure

Four Real World Examples

Everyone with a high net worth should put together an estate plan. Some may be straightforward, while others will be complex. Here are a few examples of people with complex financial circumstances who would benefit from hiring an experienced estate planning attorney.

Barry the entrepreneur

Barry is an entrepreneur in his 50s. He is not a U.S. citizen, but he has a green card. He owns real estate here, plus stock in U.S. companies, and lots of expensive stuff in his home -- cars, antiques, jewelry, etc. He also has assets in South America and Europe.

Barry wants a little bit of his estate to go to his children (who are already doing well on their own), most to go to his grandchildren, and nothing to go to his ex-wife.

A good estate planning attorney will know the applicable laws, both domestic and foreign, that apply to Barry's situation. His estate plan can be structured so that his grandchildren don't get control the money until they are old enough to handle it.

The planner will go through several years of tax returns to see how Barry is handling his finances now, what he paid for the properties and what they are worth today. In addition to minimizing estate taxes, the plan will minimize capital gains taxes and property taxes.



If Barry has a good estate planning attorney, his estate plan will minimize estate, capital gains, and property taxes.

Sanjay and Ling, non-citizen U.S. residents with young children

Sanjay and Ling are young, bright and hard working. They don't think of themselves as rich, but they want to make sure their two young children are cared for if anything bad happened. While the parents are not U.S. citizens, their children were born in the U.S.

An experienced estate planning attorney will know which laws apply. By establishing a long-term relationship, the estate planning attorney also can help the parents update their plan as their family grows, as their finances change, and as they move to new places. The planner also will counsel fiduciaries in connection with carrying out legal responsibilities, whether they are personal representatives, trustees, or guardians.

If their proposed guardians don't live in the U.S., the kids are at risk of having the Court not permit them to be taken out of the U.S. – or at least there might be a protracted guardianship dispute/case. There are also issues with making sure the kids have passports that permit them to travel with someone other than their parents, etc.



Sanjay and Ling are not U.S. citizens but their children were born in the U.S. An experienced estate planning attorney will help the parents update their plan as their family grows, as their finances change, and as they move to new places.

Edna the parent leaving the \$7M family home to her children

Edna wants all four of her children to share equally in her estate. But she wants her son to have the \$7 million family home. An experienced estate planning attorney will recognize some of the pitfalls in that scenario, such as the financial burden of taking over a mortgage and property taxes on an expensive home.

Unless Edna has a \$28MM estate – after estate taxes, she's not going to be able to give one son the home and treat the other 3 children equally ($\$7\text{MM} \times 4 = \28MM) – unless the son can qualify for a \$5,250,000 mortgage (and then, by the way, only the 1st million would be income tax deductible interest) or she has a boatload of other assets.

The planner also will talk to Edna to find out how each of the children handle money, making sure that the plan specifies ways to distribute the estate that help each child do his or her best.



A seasoned estate planning attorney will help Edna avoid potential pitfalls and specify distributions that help each child.

Bill the business owner

Bill is a successful Palo Alto business owner ready to retire but lacking an exit strategy for his Silicon Valley business. An experienced local attorney can guide Bill as to business succession planning – a strategy that enables a business owner to implement an exit strategy for leaving the business either voluntarily (through retirement or sale) or involuntarily (due to incapacity or death).



Bill needs an attorney experienced in formulating personalized business exit plans and estate plans for business owners in the Palo Alto area.

Bill needs to nail down his financial goals; set a timeline for when he will retire; find out his business's current value; increase the value of the business; and, eventually, sell or gift the business. He needs a contingency plan that includes a buy-sell agreement; business, disability and life insurance policies; key employee incentive programs; and more.

Having a relevant and up-to-date estate plan is essential. The business succession plan directly impacts the owner's estate plan. How it impacts the estate plan, however, depends largely on whether the exit plan calls for the sale of the business versus a bequest (gift) of the business.

It's essential that Bill formulate an estate plan that addresses every aspect of the business succession plan and that as each phase of the succession plan is achieved, the estate plan is updated accordingly. He needs an attorney experienced in formulating personalized business exit plans and estate plans for business owners throughout the Palo Alto, Los Altos, and San Francisco Bay areas.

Fifteen Frequently Asked Questions

Q: We aren't wealthy. Do we really need estate planning?

A: Living in the Bay Area can sometimes give us a skewed view of our financial situation. Many of us know people who have much more wealth than we do. But if you own a home or other real estate in the Bay Area, earn a salary typical of the region, or run your own company, you have significant assets that need to be protected.

Q: But we're still young. Why bother with estate planning so early?

A: We never know when something bad might happen to us. Whatever your age or health, you should have a plan that will allow for a smooth transition of your estate to your heirs. If you have young children, it's all the more vital that you provide for their future.

Q: I've heard that I should avoid probate, but I don't know what it is?!

A: "Probate" is one of those Latin words that lawyers love to use. Basically it means of "to prove." When you leave a will, someone has to prove to a court that the will is valid. But it's possible to sidestep probate by putting your estate into a living trust.

Q: What's the difference between a living trust and a will?

A: A trust avoids probate, and saves your heirs both time and money. A living trust is a contract with three parties: the grantor, the trustee, and a beneficiary (or several beneficiaries). You are the "grantor" (sometimes called the "trustmaker" or the "settlor"). While you are alive, you usually are also the trustee, the person who manages the assets. A "successor trustee" is usually named to take over after your death or disability. While you are alive, you also are usually the beneficiary. If it's set up properly, it should also avoid the need for having to appoint a "conservator" (someone to look after you) if you become disabled.

Q: Does that mean there won't be any taxes on my estate?

A: It's tough to escape taxes altogether. A good estate plan will keep them to a minimum. It will pay attention not only to estate taxes, but also to income taxes.

Q: Do I need to do anything special to keep my ex out of all this?

A: This is an easy one. If you are divorced, unless s/he's given the right to certain assets in the property settlement agreement, your former spouse has no say in what you do with your estate.

Q: Can our estate planning control anything about our children other than how much money they get?

A: Your estate plan can include specific instructions for how your assets are passed to your heirs. For example, you may want the money held by a third party until your children (or grandchildren, or other young heir) reaches a certain age. Some of my clients also include a "heritage statement" – a statement that lets their children know where they came from, how they struggled to make a better life for themselves and their families, and what their "core values" and "core beliefs" are.

Q: I'm not very good at keeping track of my assets, and numbers bore me. Can't I just have you talk to my accountant?

A: An accountant knows numbers. A lawyer knows the law. Only you know your own desires, goals and concerns when it comes to how your estate is handled. You really need to be part of the process to make sure your plan spells out your wishes.

Q: I'm not a U.S. citizen. How would that affect my estate planning?

A: U.S. tax laws are notoriously complex even for U.S. citizens whose assets are all within the country. It only gets worse if you are not a U.S. citizen or if some of your assets are in another country. A good estate planning attorney can navigate the complex rules and map out a strategy that is best for your heirs.

Q: What will it cost me to have you draw up an estate plan?

A: Every plan is different, so we don't have a fixed price. A basic trust may cost you a few thousand dollars. Advanced planning such as family limited partnerships, charitable remainder trusts and private foundations could run into five figures. Think of it this way: Spending less than one percent of your estate to protect the remaining 99 percent is a sound investment.

Q: Why so much?

A: You aren't really paying for a stack of documents. You are paying for the 30 years of expertise. There are no second chances for your estate plan. Either it will work when the time comes, or it won't. You want to be confident that it will. When you hire me, you get a certified specialist in estate planning by the California State Bar Board of Legal Specialization. The certification requires passing a special bar exam and a certain amount of experience in the field. I also have an advanced degree in tax law.

Q: Can you save me money by making some minor changes in an existing will for a very low cost?

A: No, we can't. Again, we draw on a decades of experience to know what works, what doesn't, and why. We take time to find out your needs. If you are looking for someone to quickly churn out standard forms for a few hundred dollars, you'd do better to look elsewhere.

Q: Could I just do it myself?

A: Legally, sure. Just remember: Your heirs can't go back and fix your mistakes once you are gone. A plan can look pretty on paper, but be impossible to carry out in real life. We know the key questions to ask, and what it will take to carry out your wishes. We know how the law works. We have seen mistakes that others have made, and know how to avoid them.

Q: Why are you any better at this than the next probate expert?

A: As a certified specialist in estate planning by the California State Bar Board of Legal Specialization, I have a designation shared by less than 1 percent of the attorneys in California. I also have an advanced degree in tax law. And I have practiced California estate, gift-planning, and probate law exclusively since 1991.

In addition to all that, I listen. I'm here to design the estate plan that fits your needs, not try to force you into a pre-existing model.

Q: Our finances and family may change a lot before we die. How long before we have to re-do all of this planning?

A: If you divorce, remarry, have children, move out of California, or make any of several other changes, you'll want to revisit your plan. Any time you encounter any event that changes the nature of your estate, you should update your instructions for what happens to it.

Getting Started

We can set up documentation, write any complex agreements, and take other steps to help protect you. But you need to take the first step: contacting us. Protect your assets and your loved ones by examining your options now. Call (650) 325-8276 or [get started at our website](#).

GET STARTED

Typical “foundational” engagement

A typical "foundational" estate planning engagement includes preparation of a will, a revocable living trust, a durable power of attorney for financial matters, and an Advance Health Care Directive; if a client is married, then I would prepare wills and durable powers of attorney for both the husband and wife.

Fee structure for estate planning services, as of Jan 1, 2011

Usually, clients receive an initial consultation of 30 to 60 minutes; a "design meeting" of 1.5 to 3 hours; and a "signing meeting" of approximately 1 to 3 hours.

If either spouse is not a U.S. citizen, it may be necessary to establish a "qualified domestic trust". If you want your children to be protected from creditors and predators, it might be necessary to include more complex trust provisions in your plan. There are other options available too.

The typical estate planning fees for a single individual range from \$2,100 for a simple estate to \$5,000 for a complex estate; for a married couple, typical fees range from \$3,200 to \$9,000. The typical fee includes funding the client's personal residence, brokerage accounts, additional real estate, changing beneficiaries on life insurance policies, and changing beneficiaries on retirement accounts.

The hourly rate for consultation and services is \$410. The typical retainer is one-half of the estimated fees, with the balance due when your documents are ready to sign. We will make corrections and minor changes for up to 45 days after your documents have been signed, without further charge to you.

About Janet Brewer

Focused on estate planning, gift planning and probate law since 1991

Janet Brewer has practiced California estate, gift-planning, and probate law exclusively since 1991. She is a California certified estate planning and probate specialist -- one of fewer than 200 practicing in Santa Clara County and fewer than 2,000 practicing in California (out of almost 200,000 lawyers statewide). She received her law degree from the University of Denver Law School in 1975. She was admitted to the Colorado Bar in 1975 and to the California Bar in 1977. She earned her MBA degree from Golden Gate University in 1982 and her Masters of Laws degree in Taxation (LLM - Tax) at GGU Law School in 2010.



Advanced tax strategies for high net worth estates

Ms. Brewer specializes in preparing wills and revocable living trusts, administering estates and trusts, probating estates, forming family limited partnerships and limited liability companies, and establishing a wide variety of tax-sensitive trusts – including children's trusts, charitable trusts, and irrevocable life insurance trusts. She also prepares estate tax returns for decedents whose estates have more than \$5,000,000 of assets.

Credentials

Certified Specialist in Estate Planning and Probate Law

California State Bar Board of Legal Specialization

LLM - Tax

Masters of Laws in Taxation, Golden Gate University

MBA

MBA, Golden Gate University

JD

JD, University of Denver Law

California State Bar

Member, State Bar of California

Colorado Bar

Member, Colorado Bar Association

Honors & Awards

Avvo Rating: 10.0/10 - Superb

California State Bar Executive Committee, Solo & Small Firm Section

Society of Trust and Estate Practitioners

Northern California SuperLawyers, 2007-2010

Founding Member, WealthCounsel

Experience

Janet has served as an Instructor in the CFP (certified financial planner) program at UC – Santa Cruz and has taught estate planning for the UCSC Certified Financial Planner certificate program.

In September 2009, the California State Bar Board of Governors selected her to serve a 3-year term as a member of the Executive Committee of the Solo and Small Firms Section of the State Bar.

Janet is also a member of STEP (the Society of Trust and Estate Practitioners), an invitation-only group of estate planning professionals who have special expertise in the area of international estate planning. She frequently prepares estate plans for foreign nationals who own property or live in the United States and for US citizens who own property abroad.

Prior to founding her estate-planning practice, Janet worked as a corporate attorney for a number of firms, including Corvus Systems, Hewlett-Packard, Hills Bros. Coffee, and Telebit Corporation.

She received her law degree from the University of Denver Law School in 1975 and was admitted to the California Bar in 1977. She earned her MBA degree from Golden Gate University in 1982 and expects to receive her Masters of Laws degree in Taxation (LLM - Tax) at GGU Law School in the summer of 2010.

Additional Resources

California Probate, Trusts, and Estate Law Blog

Janet sounds off on the latest issues, providing practical tips.

Picking Your Trustee in California

Download this free 2010 guide for high net worth individuals.

Year-End 2010 Tax Law Update for Bay Area Families

Get a free 6-page PDF packed with year-end 2010 asset protection tips from Palo Alto estate tax attorney Janet Brewer. (Released Dec 2010 - please check our blog for the latest information.)

Tax Law Update for Bay Area CPAs Serving High Net Worth Clients

San Francisco Bay Area CPAs, financial advisors, enrolled agents, and insurance agents - get a free 8-page Alert about year-end 2010 estate tax law changes and asset protection tips. (Released Dec 2010 - please check our blog for the latest information.)

Legal Definitions Page

Find out what those acronyms and terms mean.

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Specializing in serving clients with assets in Palo Alto, Atherton, Portola Valley, Woodside, Los Altos, Mountain View, Sunnyvale, Menlo Park, Redwood City, Belmont, San Carlos, San Mateo, Burlingame, Santa Clara, Cupertino, Saratoga, Los Gatos, Campbell, San Jose, Santa Clara County, San Mateo County, Alameda County, San Francisco County, Santa Cruz County, or Silicon Valley.

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