

**Team Tisser Foundation**



Team Tisser Foundation (TTF) is a non-profit corporation founded by Doron M. Tisser and his wife Laurie. TTF raises money for various charitable purposes and does not focus on any one charity or charitable purpose. The goal is to raise as much money as possible to "Help Make A Difference" by "Improving Life for Others." TTF has made donations to Memorial Sloan-Kettering Cancer Center, Leukemia & Lymphoma Society, Challenged Athletes Foundation, as well as charities helping people affected by natural disasters such as Hurricane Katrina and the Tsunamis. Since 2000, TTF has donated almost \$175,000 to over 25 different charities. Friends and clients generally donate money to TTF to support Doron's participation in triathlons and marathons. If you would like more information about TTF, please contact Doron at [doron@tisserlaw.com](mailto:doron@tisserlaw.com), or visit [www.teamtisser.org](http://www.teamtisser.org)

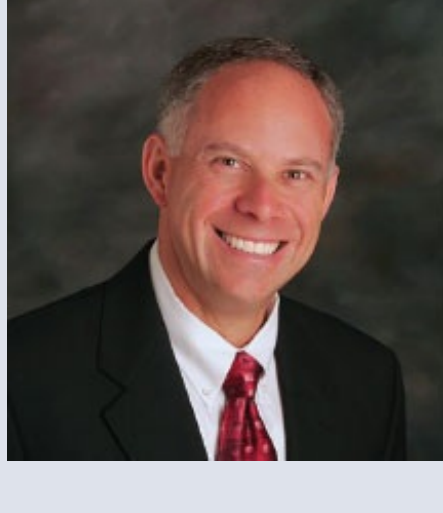
**Quick Links**

[www.tisserlaw.com](http://www.tisserlaw.com)  
[www.teamtisser.org](http://www.teamtisser.org)

**About**

**Doron M. Tisser**

Doron M. Tisser has specialized in estate and gift planning, tax planning, trust and probate administration, charitable giving, buy-sell agreements and related areas for over 27 years. Mr. Tisser is one of less than 100 attorneys in California who has been designated as both a Certified Specialist in Probate, Estate Planning and Trust Law, and as a Certified Specialist in Taxation Law by the State Bar of California Board of Legal Specialization. He was chosen by his peers as a Super Lawyer for 2009, 2010, and 2011 for Southern California, and enjoys an "a.v." rating by Martindale-Hubbell Law Directory, which is the highest possible rating and is based on ethical considerations and legal skills. Mr. Tisser has published over 65 articles and chapters in books on various estate and tax planning subjects and is a frequent speaker and lecturer at estate and tax planning seminars. Mr. Tisser competes in triathlons, including Ironman races, and raises money for charities through Team Tisser Foundation, a non-profit corporation he co-founded with his wife Laurie.



**What's Happening**

Each month, we place a special column on the left-side of the Tisser Law Group website, [www.tisserlaw.com](http://www.tisserlaw.com), which has interesting facts or stories. We invite you to view our web-site each month to see the latest addition. This month, we are discussing some of the more extreme uses of Wills ever made.

The Tisser Law Group held its 2nd annual conference on The State of Estate Planning on March 16, 2011 and March 22, 2011. The conference was very well received by the attendees, and we will be holding our 3rd annual conference in the beginning of 2012.

If you would like to receive copies of the outlines used at our conference on The State of Estate Planning, please contact either Laura Stein, at [laura@tisserlaw.com](mailto:laura@tisserlaw.com), or Irma Sommerfeld, at [irma@tisserlaw.com](mailto:irma@tisserlaw.com).

If you would like Doron M. Tisser to speak to your group or organization about the new estate tax laws, or other estate planning subjects, please contact Laura Stein at [laura@tisserlaw.com](mailto:laura@tisserlaw.com) or call Laura at (818)226-9125.

Team Tisser Foundation, our non-profit corporation, has a valuable offer for you. Team Tisser has made arrangements with Cycle World, in Northridge, California, to give friends of Team Tisser a special deal on bicycles and related items. If you make a purchase from Cycle World, you will receive a store credit of 10% of your purchase price on non-sale items to be used on your next purchase at the store. In addition, Cycle World will donate 10% of your total purchase price of non-sale items to Team Tisser. This is a win-win for you and Team Tisser. Go to [www.teamtisser.org](http://www.teamtisser.org) to find out more about this offer. Please tell all your friends about this offer and start shopping at Cycle World. Incidentally, Doron M. Tisser purchased his new triathlon bike at Cycle World and loves it.

**HERITAGE TRUSTS: PROTECTING YOUR FAMILY'S INHERITANCE**

How you leave assets to your beneficiaries will have consequences for them and their children. For instance, if your son is not economically mature enough to receive the assets when you die, you may place those assets in a trust for him until he reaches certain ages. On the other hand, if you leave assets to your son outright (without a trust) at your death, he will have immediate use of those assets and may waste the inheritance.

In deciding how to leave assets to children and other beneficiaries, it is important to look at protection planning and multi-generational planning.

For purposes of this article, I will use a son as the beneficiary of assets. The same discussion will also apply to a daughter, grandchildren and other individual beneficiaries.

**Protection Planning**

Protection planning involves looking at how a beneficiary's direct receipt of assets will affect him. There are generally three protection planning areas to consider:

1. Your son's creditors,
2. Your son's marital situation, and
3. Estate taxes to your grandchildren when your son dies.

**Your Son's Creditors**

Your son may be in a business subject to lawsuits. Maybe your son is a doctor or attorney, or owns a business in which he is worried about being sued. If you leave assets directly to your son, these assets he receives when you die (or at a later date if the assets are held in trust for him until he reaches specified ages) may be subject to his creditors. If he loses a lawsuit, those assets are as vulnerable to a creditor as assets he owned that were not inherited.

There may be asset protection planning steps your son can take to protect the inherited assets from creditors, but it would be easier for you to do asset protection planning for your son as part of your estate planning.

**Your Son's Marriage**

If your son is married and inherits assets from you, those assets are his separate property. However, if any community property assets are commingled with the inherited assets, part or all of the inherited assets may become community property, which could result in his spouse owning some of the assets inherited from you. The spouse could end up receiving part of the inherited assets in a divorce.

Even if community property is not commingled with inherited assets, a divorce will not prevent your son's spouse from making a claim that part of the inherited assets are community property and that she is entitled to own some of those assets. Whether or not she is successful in the claim is not the issue. The fact a claim can be made, regardless of the outcome, complicates the divorce.

Your son may not be married, but you might still want to protect his inherited assets from a future marriage. If a Heritage Trust is created for your son, the Heritage Trust can act as a premarital (prenuptial) agreement with his spouse as to the inherited assets because the assets would be protected from a spouse's claim of ownership.

The planning discussed below can help protect your son's inheritance from his spouse.

**Estate Taxes When Your Son Dies**

For purposes of this discussion, we will assume (1) there will be estate taxes at your son's death when he leaves his assets (including the assets inherited from you) to his children, and (2) your son will leave his assets to his children. If he leaves the assets to his spouse, the same discussion would apply at the spouse's death when the assets are left to the children.

When your son dies, the value of his assets may be subject to estate taxes before the assets pass to his children. If the value of his assets exceeds the exemption amount the government allows him to leave estate tax free, there will be an estate tax.

Let's assume the exemption amount is \$5 Million (as it is in 2011). If your son's assets (which he accumulated during his lifetime) are worth \$5 Million at his death, there will be no estate taxes at his death. If, however, he had also inherited \$1.5 Million in assets from you, those assets would be included in the value of what he owns at at their value at the time of his death. In this case, the value of his assets would be \$6.5 Million (assuming no growth in the value of the inherited assets), which exceeds the \$5 Million exemption amount and would create an estate tax for his children. That estate tax would be approximately \$525,000.

Use of a Heritage Trust can avoid the estate tax on the assets he inherited from you.

**How the Heritage Trust Works**

A Heritage Trust is an alternative method for distributing assets to your son and is almost always better than giving the assets outright to him.

In a Heritage Trust, the assets your son inherits from you are placed in trust for your son during his lifetime. The trustee of the trust will decide how much of the trust to distribute to your son during his lifetime. Any assets remaining in the trust at your son's death will then continue to be held in trust for his children, or any other persons your son designates.

Your son can be his own trustee in control of all trust matters, including how to invest the trust's assets, with one exception. Your son may not make distributions to himself; instead, there will be a named Distribution Trustee who will decide whether to make distributions to your son. If your son wants to have money distributed to him, he will need to ask the Distribution Trustee to approve the distribution. If the Distribution Trustee approves the distribution, your son, as trustee, can then make the distribution to himself. If the Distribution Trustee does not approve the distribution, your son will have the authority under the trust to remove the person serving as Distribution Trustee and replace him with someone who is not related to your son, such as a friend. Your son will then be able to ask the new Distribution Trustee to approve the distribution.

It is important to remember, however, that the purpose of a Heritage Trust is to protect your son's inherited assets. Once a distribution is taken from a Heritage Trust, the money or asset distributed is no longer protected. Therefore, a beneficiary should try to avoid taking distributions from a Heritage Trust. Instead, the beneficiary can borrow money from the Heritage Trust, and pay the money back over time.

If the beneficiary wants to use the assets in the Heritage Trust to buy a piece of real estate, but instead of distributing the money to the beneficiary so he can buy the real estate, the trustee of the Heritage Trust (which can be the beneficiary) can have the Heritage Trust buy the real estate. By having the Heritage Trust buy the real estate, the real estate has the same protection from the beneficiary's creditor's, spouse and estate and GSTT taxes as the other assets in the Heritage Trust.

Neither the borrowing of money from a Heritage Trust nor the Heritage Trust's investing in real estate or other assets requires the use of a Distribution Trustee. So if no assets are ever distributed from a Heritage Trust, there will never be the need to use the Distribution Trustee's services, and the person named as the Distribution Trustee may never know they were named.

**Benefits of a Heritage Trust**

There are three primary benefits of establishing a Heritage Trust for your son.

1. The assets in the Heritage Trust should be protected from your son's creditors.
2. In the case of a divorce, your son's spouse should not be able to claim any ownership in the assets in the Heritage Trust.

The reason that creditors and a spouse should not be able to attack the assets in the trust is because your son does not own the assets; rather, he is the trustee of the Heritage Trust which owns the assets, and he does not control distributions to himself.

3. The value of the assets in the Heritage Trust up to the amount the government allows to be left free of generation-skipping transfer tax (GSTT) will be able to pass tax free at your son's death to his children and to his grandchildren. A GSTT will apply, in general, when you leave assets to your son in trust and at your son's death, those assets go to your grandchildren or grandchildren without being subject to estate taxes at your son's death.

**Example of the Use of Heritage Trusts**

We have represented four generations of one family. The first generation was the great-grandmother, who was 95 years old. The second generation was the daughter, who was 63 years old. The third generation was the grandson who was 39 years old, and the fourth generation consisted of great-grandchildren in their teens.

The estate planning we do for each generation impacts the next generations. For example, if the great-grandmother was going to leave her daughter \$1 Million, the value of that amount (plus any increase in value during the daughter's life) would be subject to estate taxes when the daughter dies. If the value of the inherited assets grew to be \$2 Million, and the daughter's assets were subject to estate tax at her death, approximately \$700,000 of estate taxes would be owed on the value of the inherited assets. The same result would repeat itself when the son dies and the assets go to his children.

We had the great-grandmother create a Heritage Trust for her daughter. We had the daughter create a Heritage Trust for her son, and we had the son create Heritage Trusts for his children. In this way, all of the assets inherited from the prior generation would bypass estate and GSTT and would continue to be held in trust for each succeeding generation.

At the daughter's death, the estate and GSTT tax saved on the \$2 Million of value in the Heritage Trust (including appreciation) would be \$700,000.

At the son's death, if the value of the assets in the Heritage Trust grew to be \$3 Million, the estate and GSTT tax saved on the \$3 Million would be \$1,050,000.

This tax savings on estate and GSTT tax would continue as each beneficiary dies and their Heritage Trust goes to their children.

In addition to the estate and GSTT tax savings the family would receive, the assets in the Heritage Trusts should be protected from each beneficiary's and spouses.

**Lifetime Giftss**

Heritage Trusts do not have to be used only for inheritances at your death. When you make gifts to children during your lifetime, you should consider making them to a Lifetime Heritage Trust to give the children the same protection from creditors, spouses and taxes that they would receive in a Heritage Trust which is funded at your death.

If you fund a Heritage Trust with life insurance policies and assets that are expected to grow significantly in value, the estate and GSTT tax savings can be enormous.

**Conclusionn**

By allowing your beneficiaries to be protected from creditors and future estate taxes, the use of Heritage Trusts is one of the best estate planning tools available.