

Holland Law Offices, LLC.

Wills, Trusts, Estates, Probate,
Asset Protection & LGBT Planning

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Large firm experience, small firm responsiveness

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LGBT / Same Sex Planning:

Same sex marriages are recognized under all 50 states and under federal law in the same manner as heterosexual marriages, however, same sex couples need to be particularly aware of estate planning issues. Effective estate planning for gay or lesbian couples requires a “non-standard approach”.

Sex couples who have not married will be treated in the eyes of the law as complete and utter strangers. As a result, same sex couples without the proper estate planning documents in place will suffer unnecessary heart ache, endless frustration and possible financial strain during an already difficult time.

One particular concern for same-sex couples is avoiding probate court on death. Everything in a Will becomes public during probate. Prior to admitting a Will to probate, all potential heirs must be notified and are given the opportunity to contest the Will. For that reason, many same sex couples opt for a Revocable Living Trust to dispose of their assets at death. Revocable Living Trusts can be 100 percent private and they are much more difficult for surviving heirs to contest.

Same sex couples must concern themselves with issues related to guardianship of minors and funeral arrangements. If there are children, it is possible that the children will have only one of the partners as a legal parent. Unless proper documentation has been prepared in advance, a Probate Court Judge will have decision making authority over some of these sensitive issues. It is particularly important for same sex couples to address these issues.

Charitable giving is often very important for same sex couples without children. Such couples should engage an attorney who is adept with various sophisticated philanthropic

strategies.

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