

Welcome To Texas...Now What?

TIPS FOR TEXAS TRANSPLANTS

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Author's Note

The information contained in this booklet is for informational purposes only. It is not intended to give anyone specific legal advice. This author recommends that you consult with a qualified estate planning attorney for answers to your specific family situation.

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Introduction

Texas is just as much a state of mind as it is a state of the union. It is crammed with myths, legends and characters. Your move here may lead to even more of that!

Texas is also a bit mysterious to outsiders. The mystique of wide-open land, cattle and oil seem to be at the top of non-Texan minds when they first conjure up the Lone Star State. But, of course, it is so much more than that. It's BIG in terms of ideas, resources and space. It is also BIG when it comes to big cities, big smiles and big hearts.

This book is a brief introduction to Texas culture, laws and even vocabulary. If you have recently moved here or are considering coming, it hopefully will help keep you sane and centered. There are some things to do right after you arrive, and longer term items not to be ignored.

All in all, we, at The Wiewel Law Firm, hope you enjoy it, learn from it and (to comfort the concerns of many Texans over your arrival) don't forget why you are moving here.

God Bless Texas!

About The Wiewel Law Firm

Who We Are

The Wiewel Law Firm focuses its practice exclusively in the area of wills, probate, estate planning, asset protection, special needs planning and elder law. Years of experience, a passion for helping our clients, and a high regard for law and ethics guide the way we help our clients in estate planning and in setting up secure estate administration and trust administration structures. We can also carefully and gently help families navigate through the challenges common in every one's life.

What We Do

In addition to creating estate plans, we help clients prepare for unplanned possibilities like debilitating health problems and the loss of a loved one. It is our objective to maximize control at these critical times regarding healthcare decisions and asset management, while minimizing the need for court intervention.

Why We Do What We Do

We LOVE taking complex legal concepts and making those understandable to our clients and their advisors so they can

take action. That then allows us to bring peace of mind to our clients and their family if they become incapacitated, at death, and when they are concerned about protecting themselves, their wealth, and their loved ones from predators, problematic family members and the IRS!

Our Mission

The Wiewel Law Firm's mission statement is to honor God, our clients, our families, and our community by providing each of our clients with the finest legal counseling possible. We endeavor to serve our clients by exceeding their expectations in every way, but especially by providing an ongoing personal relationship with them over the course of their lives. This is why we call our law firm *The Peace of Mind People*®. We serve clients throughout Texas, and *we would be happy to assist you.*

CHAPTER 1

Why Move to Texas?

More people moved to Texas in 2020 than to any other state according to Move.org., which based its information on its own data, Census Bureau information, and independent surveys.

Other studies reinforce the fact that Texas is a very popular place to relocate. For example, the Texas Realtors' **2021 Texas Relocation Report** indicates that more than 500,000 people moved to Texas in 2019 alone, the seventh consecutive year in which Texas experienced an influx of more than 500,000 people. And between 2010 and 2019, the state's population increased by a whopping 3.8 million people.

So why is Texas such a popular place? There are lots of reasons. For starters, it's a dynamic state with a strong job market, a low unemployment rate, a large, highly-skilled and educated workforce, a rapidly growing high tech sector, and a business-friendly environment. The delicious barbecue and Tex-Mex don't hurt, either.

But Texas is about so much more.

This chapter gives you a quick rundown on what makes Texas such an interesting place to live and why you too may want to considering relocating here. And if you've already moved to the state, congratulations! What took you so long?

Texas is BIG!

As the saying goes, “Everything is bigger in Texas.” And by many measures, Texas is a *big* state. For example, at 801 miles long and 773 miles wide, it encompasses 268,581 square miles, making it the largest of the contiguous states in the nation. If it were a country, Texas would be the 40th largest in the world according to the World Population Review, an independent demographic data organization.

According to the 2010 Census, the population of Texas was 25,145,561. However, the World Population Review reports that as of 2020, Texas’s population was 29,087,070, second only to California. That represents an astounding 15% growth in population since 2010.

And although wide open spaces may be what first comes to mind when you think of Texas, it is, in fact, home to some of the nation’s most populous cities. For example, Austin, Dallas, Houston, and San Antonio each have populations of more than 1 million people and rank among the 10 most populous cities in the country, while two other Texas cities -- El Paso and Fort Worth -- have populations greater than 500,000, which puts them among the 25 largest cities in the nation.

And given its geographic size, it should be no surprise that Texas has more miles of road than any other state – 313,200 miles. It also has 16 seaports, 27 commercial airports and 32 foreign trade zones.

For more interesting facts related to big things in Texas, check out Exhibit A in this chapter, *Texas Truly is BIGGER*.

It’s Got a Diverse and Resilient Economy

If Texas were an independent country -- which it was for almost ten years -- its \$1.9 trillion economy (as of 2019) would be the 9th largest in the world, ahead of Australia, Mexico, Spain and Russia. Here are some of its features:

- Texas is a leading national exporter. In fact, 2020 marked the 19th consecutive year that Texas was the nation’s #1

exporting state (in 2020, its export trade totaled \$279 billion). And in that same year, Texas led the nation in technology exports for the eighth consecutive year according to the US Census Bureau. Texas's impressive export track record speaks volumes about the state's ability to weather national economic ups and downs.

- It's the largest energy-producing state in the nation. In part, that's because Texas is the country's biggest producer of wind power.
- The state's thriving wine industry generates more than \$13 billion in revenue every year.
- Texas is home to 287,000 farms -- more than any other state -- and its farmlands produce more cotton and cattle than any other state, too.
- Texas consistently ranks at or very close to the top of the list of best states to start a small business. Reflecting that fact, more than 2.8 million small businesses are registered in the state according to the Small Business Administration.
- To the surprise of some, Texas is a great place for female and minority-owned businesses. For example, according to a report commissioned by American Express, there were nearly 1 million women-owned businesses in Texas in 2019 – the third highest in the nation; in 2020, FitSmallBusiness, a leading digital resource for small business owners, ranked Texas as the #5 best state for women entrepreneurs; and MaxFilings, a leading online incorporation filing resource, ranks Texas as a leader in the number of minority-owned businesses—only California has more.

The State is Relatively Affordable

Compared to most other states, the cost of living in Texas is affordable when you take into account what you will pay overall for groceries, housing, and energy, especially when you combine those things with the quality of life in this state. And although longtime Texans often complain about how expensive

housing has become, housing costs remain quite low compared to many other parts of the country. However, property and sales taxes for residents in certain parts of Texas are relatively high. Chapters 5 and 6 provide more information about taxes in Texas.

There Are a Lot of Interesting Cities in Texas

Texas is home to some of the most interesting cities in the country, each of which features vibrant fine arts and performing arts scenes, great restaurants and shopping, numerous museums and parks, many historic sites and buildings, and numerous family-friendly festivals. Its largest cities are Houston, Dallas, San Antonio, Austin, Fort Worth, and El Paso, and each of them has its own unique personality. Here is a very quick rundown on each city:

- Austin, the capitol of Texas, has a world-renowned live music scene, a reputation for the weird and wacky, and is famous for its bats, most of which live downtown under the Congress Avenue bridge next to Lady Bird Lake. The bats are a major tourist attraction.
- Dallas is big, bustling and cosmopolitan. It's home to the nation's largest state fair, as well as the nation's largest contiguous urban arts district. The district encompasses 68 acres and 19 contiguous blocks.
- Fort Worth dubs itself the "City of Cowboys and Culture" in recognition of its western frontier history, including the cattle drives that were key to the city's economy during its early years. It's also especially rich in world-class art museums.
- El Paso, the western-most city in Texas, is closer to Phoenix, the capitol of Arizona, and Santa Fe, the capital of New Mexico, than it is to the capitol of Texas, and it's in a different time zone than most of the rest of Texas. Home of the largest urban park in the nation, El Paso's culture is heavily influenced by Mexico, with whom it shares a border.

- Houston is the 4th largest city in the nation and one of the most racially and ethnically diverse cities in the U.S. A true melting pot, one in four residents of the area are foreign born, a fact that has a profound effect on the city's food and culture.
- San Antonio was founded as a Spanish mission and colonial outpost in the early 1700s. Its beautiful Spanish missions, River Walk, Alamo, and Tex-Mex restaurants make it a popular tourist destination.

In addition to Texas's big cities, there is an abundance of smaller cities and large towns in the state. Some function as bedroom communities, but others, especially in more rural parts of Texas, have their own vibrant cultures and commercial centers.

You Won't Go Hungry in Texas!

Texas is famous for its traditional food and beverages, which include such iconic foods as barbeque, chili (no beans!), Tex-Mex, Frito Pie, Blue Bell ice cream, Shiner Bock beer, Big Red, and Dr. Pepper. However, you will also find many ethnic restaurants in Texas, which reflect the state's increasing diversity, as well as numerous fine restaurants that serve up a wide array of inventive, sophisticated food. In fact, its restaurants and chefs are featured regularly in high profile food magazines, and in 2019 as a hat tip to Texas chefs, the prestigious James Beard Awards recognized the state as its own distinct culinary region.

The State is Rich in Culture

Texas has a rich and varied culture. In part, that's because its history includes Native Americans, Hispanics, African Americans, Germans, Czechs, Poles, and Anglos, not to mention cowboys. It's also because Texas is a wealthy state, so there are many people willing to support art museums with their money (often considerable amounts of it). As a result, there are quite a few excellent

museums in Texas, many of which maintain impressive permanent collections. The most renowned include the Kimball Art Museum and Modern Art Museum in Fort Worth, the Museum of Fine Arts, the Menil Collection, and the Contemporary Art Museum in Houston, and the San Antonio Museum of Art and the McNay Art Museum in San Antonio.

In Austin, you'll find the Blanton Museum of Art, which is located on the University of Texas campus. A relatively new museum, it's already considered one of the leading university art museums in the country and it has the largest and most comprehensive collection of art in Central Texas.

There is also a plethora of smaller, private art galleries and sculpture gardens throughout Texas and many arts districts, the most notable of which is the Dallas Arts District. You will also find innumerable smaller, specialized museums like the iconic Alamo, the Bob Bullock Texas State History Museum, the Texas State Railroad Museum, the Art Car Museum, the Cow Girl Hall of Fame and Museum in Fort Worth, and the upside-down cars at Cadillac Ranch in Amarillo, as well as many children's museums and museums devoted to science. Additionally, there are three Presidential Libraries and Museums in Texas: the LBJ Library and Museum in Austin, the George H. W. Bush Library and Museum in College Station, and the George W. Bush Library and Museum in Dallas.

There is Plenty to Do Outdoors in Texas

Texas features mountains and rolling hills, prairies, forests, desert, ranchland, lakes, rivers, streams and 3,359 miles of coastline. So as you might expect in a state so geographically diverse, there is no shortage of fun things to do outdoors. They include camping, boating of all kinds, swimming, water skiing, tubing and rafting, hiking, rock climbing, spelunking, fishing, hunting and looking for bluebonnets in the spring—to name just a few!

There are also 13 national parks, 7 national forests and grasslands, 89 state parks, as well as many, many city and county parks in Texas.

You'll Find Excellent Hospitals Here

Numerous Texas hospitals offer excellent care. They include the following nationally-ranked facilities: in Dallas, you can find the Southwestern Medical Center, Baylor University Medical Center, and Parkland Health and Hospital System, while in Houston, there is the Houston Methodist Hospital, Baylor St. Luke's Medical Center, Memorial Hermann -Texas Medical Center, and the world-renowned University of Texas M. D. Anderson Cancer Center.

Texas is Home to Many High Quality Colleges and Universities

In its 2020 Best Colleges survey, *US News and World Report* ranked Rice University, University of Texas at Austin, Southern Methodist University, Texas A&M University, Texas Tech University, Baylor University, and Texas Christian University among the top 100 colleges and universities in the nation. There are also countless other excellent public and private institutions of higher learning in the state.

If You Love Sports, You'll Feel Right at Home Here

Sports play a LARGE role in Texas culture. Presently, for example, there are 13 Major League teams in the state, including two major women's teams: the Houston Texans, Houston Rockets, Houston Astros, and Houston Dash; the Dallas Cowboys, Dallas Mavericks, Texas Rangers, Dallas Stars, Dallas Wings, and F.C. Dallas; the San Antonio Spurs; and Austin F.C., Austin's brand new Major League Soccer team which made its debut in April 2021.

There are also several college football powerhouses in the state that enjoy intense, long-standing rivalries, and attending Friday night high school football games is a popular tradition nearly everywhere in big cities and small towns alike. In fact, some small towns are football-frenzied enough to play six-man football because they do not have enough players to field an eleven-man team!

The Weather is Mostly Mild

We admit that Texas summers can be scorching -- especially from July through September. However, the weather in the state tends to be quite mild during the other nine months of the year, and snow in most parts of the state is rare. You are most apt to see it in the Texas Panhandle (Amarillo and Lubbock), North Texas (Dallas and Fort Worth), and in the mountains of West Texas.

The History of Texas is Fascinating

Its history is yet another thing that makes Texas such an interesting place to live. The state's complex history is far too long to cover in this chapter, but here are a few important highlights:

- The recorded history about the region now known as Texas began in 1519 with the arrival of Spanish Conquistadors; however, American Indians began living here sometime around 10,000 BC.
- The culture of Texas has been shaped by the fact that it has been part of six different countries –Spain, France, Mexico, the Republic of Texas, the Confederacy, and the United States.
- Texas declared itself an independent nation, the Republic of Texas, in 1836. After that, tens of thousands of individuals from the United States and Germany immigrated to the Republic, attracted by its wide-open spaces that offered plenty of room for ranching and growing cotton.
- In 1845, the United States passed a bill authorizing it to annex the Republic of Texas. The following year, the Republic became the 28th state in the union.

Exhibit A, Texas Truly is BIGGER

In case you were wondering if everything really *is* bigger in Texas, here are some interesting facts that might help prove the point:

- Texas has 254 counties, more than any other state.
- The statue of Sam Houston, the first president and the first governor of Texas, is the world's largest free-standing statue of an American.
- With 54.1 acres, the Texas Capitol Building is the largest state capitol in the country, and it's taller than the nation's capitol building by seven feet.
- The Texas State Fair, which takes place in Dallas every year, is the largest state fair in the country.
- Downtown Austin is home to the largest urban bat colony in North America. The bats eat as many as 30,000 pounds of insects each night.
- Texas is not only the biggest producer of crude oil in the U.S, but it also produces more wind power than any other state in the country.
- Texas has more bird species than any other state.
- The hurricane that hit Galveston in 1900 claimed between 8,000 and 12,000 lives, making the storm the deadliest natural disaster in American history to date.
- The world's largest rattlesnake roundup is held every March in Sweetwater, Texas. Sponsored by the local Jaycees, it features a cook-off, a dance, live music, a carnival and concession stands that sell southern fried rattlesnake.
- The famous King Ranch is the largest ranch in the nation. Located in South Texas, it encompasses 825,000 acres, making it bigger than the state of Rhode Island.

CHAPTER 2

Living in Texas: Must-Do's and How-To's

This chapter lays out the practical things you must do once you move to Texas in order to get settled here and provides an overview of the rules that apply to key life events—like getting married, divorcing, and dying—in this state. It also discusses common law marriage and explains property law in Texas, because unlike most other states in the U.S., Texas is a community property state.

New Comer Must-Dos

You must take certain actions within particular time frames after you move to Texas. Those actions, which depend on whether or not you will own and drive a car here, are:

- **Get your vehicle inspected.** Within 30 days of moving to Texas, you must get your vehicle registered with the state and obtain your Texas license plates. To do that, however, your vehicle must first pass inspection. To get it inspected, go to an inspection station that has been certified by the Texas Department of Public Safety (TXDPS). Bring your proof of insurance card with you. You can find a certified

station near you at the Texas Department of Public Safety website (WWW.DPS.TEXAS.GOV).

- **Register your vehicle and get your license plates.** Once your vehicle has passed inspection, go to your county tax-assessor collector's office to register it and get your Texas license plates. Before you do, however, find out if you must schedule an appointment. Smaller counties typically do not require appointments, but large ones often do.

Tip: If you own a motorcycle, boat or RV in Texas, you must register them here too.

Bring the following with you when you go to the tax-assessor collector's office:

- Proof that your vehicle is insured
- Proof that it passed inspection
- Proof that you own the vehicle - the title to your car, for example. It's okay if your proof was issued by your former state, but if it was, bring your auto insurance policy with you (not just your proof of insurance) because the office will have to confirm that your coverage meets the minimum insurance requirements in Texas.
- A completed Form 130-U or *Application for Texas Title and/or Registration*, which you can find on the Texas Department of Motor Vehicles website (WWW.TXDMV.GOV).

When you register your vehicle, you will have to pay a state fee, and depending on where you live, you may have to pay county registration fees, too.

Tip: Driving with license plates from another state labels you as a "foreigner!" Once you have your Texas plates, you'll fit right in.

- **Obtain a Texas driver's license or an official state of Texas ID.** Within 90 days of moving here, Texas requires

you to either obtain either a Texas driver's license or a Texas ID. To do that, you must set up an appointment with the Texas Department of Public Safety (TXDPS) office nearest you, which you can do online at **WWW.DPS.TEXAS.GOV**. When you go to the office, you will need to bring with you documentation that provides proof of:

- Your identity. This can be a valid driver's license from your former state of residence
- Your Social Security number
- Your Texas residency. Two documents proving that you live here are required, one of which must show that you have been living in Texas for at least 30 days. This latter requirement will be waived if you are surrendering a valid, unexpired driver's license from another state. Also, both proofs of your residence must include your name and Texas address. Here are a few examples of acceptable documents:
 - Current deed, mortgage, or monthly mortgage statement
 - Current residential rental/lease agreement
 - Valid, unexpired Texas motor vehicle registration or title
 - Current homeowner's or renter's insurance policy or statement
 - Current automobile insurance policy or an automobile insurance statement
 - A utility or residential service bill dated within 90 days of the date of application
 - Medical or health card

Tip: If you don't have the documents you need to prove that you live in Texas, you will have to complete a *Declaration of Domicile Affidavit*. You will also need to provide proof that

you are a citizen of the U.S or are legally entitled to live in this country.

Tip: To be sure that you have all of the documents you need to obtain a Texas driver's license, use the Texas Department of Public Safety's REAL ID Document Checklist. If you follow the steps on the form, you will end up with a customized checklist of the documents you should bring to your appointment.

At the Texas Department of Public Safety office, you'll also have to complete a simple license application form and pay a fee. If you have a valid, unexpired driver's license from another state, U.S. territory or from Canada, you won't have to take a driver's test or pass a written exam to get your Texas driver's license. However, you *will* have to surrender your license from your former place of residence.

For more information about getting a Texas driver's license, go to: **WWW.DPS.TEXAS.GOV/DRIVERLICENSE/**

If you do not drive, you need to obtain a Texas identification card. This also involves a trip to your area's Texas Department of Public Safety (TXDPS) office. Be sure to make an appointment first. Also, before you go, be sure to:

- Complete an ID card application, which you can find online or at all TXDPS offices.
- Gather the documents you need to prove that you:
 - Are a citizen (or are legally entitled to be in this country)
 - Are a resident of the state of Texas
 - Are who you say you are
 - Have a Social Security number

When you visit that office you'll have to provide your completed application and all of the documents you have pulled together.

You will also need to get fingerprinted, have your photo taken, and pay a fee.

LIFE EVENTS IN TEXAS

The rest of this chapter provides overviews of the rules, laws and processes associated with key life events in Texas.

Getting Married

Texas, like other states, has its own rules for getting legally married. For starters, you and your future spouse must obtain a marriage license from the county clerk's office in any Texas county. If you get your license in a county other than the one where you will be married, however, you'll need to provide your completed marriage license to the clerk's office in the county of your marriage. The county clerk there will file a copy of your license and return the original to you.

When you are at the county clerk's office, the two of you will have to present valid government-issued photo IDs to prove that you are at least 18 years of age (with a few exceptions). The ID provided can be a driver's license, state ID card, military ID, passport, visa, or a certified copy of your birth certificate together with a photo ID.

You'll also have to complete an application, repeat an oath, sign the application in front of the clerk and pay a fee.

Tip: Some counties have online applications.

Warning! Some county clerk offices only accept cash for a marriage license.

Once you have a marriage license, you must wait at least 72 hours before you can say "I do." This waiting period does not apply, however, if you are active duty military; also, it can be waived

by a court order under certain circumstances. In addition, if you take Texas's state-approved eight-hour premarital class within a year prior to the date of your marriage license application, you may have the waiting period waived and get a discount on the cost of your application fee.

Warning! If either or both of you were divorced recently, you must wait 30 days before you can apply for a marriage license in Texas. The waiting period begins on the date that your divorce decree(s) was filed, although court waivers are available in certain circumstances.

In Texas, you can be married by any licensed or ordained minister, priest, rabbi or other religious officer who is entitled to conduct wedding ceremonies. Alternatively, a federal judge, state of Texas judge, county judge, or justice of the peace—active or retired—can marry you.

Tip: If you want to legally change your name after you are married, you must apply for a driver's license or identification card using your new name.

Does Texas Have Common Law Marriage?

Texas is one of just 15 states—in addition to the District of Columbia—that recognize common law or informal marriages. Couples who are in a legal, common law marriage have all of the same rights and responsibilities as couples who were married the traditional way, and if they want to formally end their marriages legally, they must file for divorce.

For a common law marriage to be recognized as legally valid in Texas, you and your partner must both:

- Be at least 18 years old, the legal age of adulthood in the state
- Agree to be married and live together under the same roof in Texas as spouses

- Represent to others that you are married. This is often referred to as “holding out that you are married.” For example, you tell others that you are married; you file joint tax returns; you make joint purchases; and/or you complete a joint loan application.
- Be currently single and not married to anybody else.

Tip: Whether or not you are in a common law marriage has nothing to do with how long you and your partner have lived together -- one night together may be enough!

If you want legal proof of your common law marriage, maybe because you are concerned that someone may question the legality of your marriage at some point, you and your spouse can sign a *Declaration of Informal Marriage* at your county clerk’s office. This document could be helpful if your marriage ends in divorce because its existence would help prove that you are legally entitled to a share of the income and assets from your marriage given that Texas is a community property state. The *Declaration* could also be important because in Texas, if a spouse dies without having done any estate planning, the surviving spouse is automatically entitled to inherit from the deceased spouse. The next section of this chapter discusses how community property works.

Warning! A common law marriage is a marriage, and you can only terminate it through a divorce!

Owning Property in Texas

In Texas, you can own property in a number of different ways. For example, you can own an asset as:

- Separate property. This is property that you either owned before marriage, received by gift or inheritance during your marriage, acquired in a non-community property state, or acquired in a lawsuit recovery.

- Tenants-in-common. This is the default form of joint ownership in Texas. If you own an asset this way, each owner has an undivided interest in the asset and can do whatever they want with their share. When one owner dies, the deceased's share of the asset goes to someone else according to the terms of their will or living trust. If there is no will or living trust, the intestate law in Texas determines who is entitled to it.
- Joint tenants with right of survivorship. When you own an asset with someone else as *joint tenants with the right of survivorship* and one owner dies, the deceased's share is automatically divided equally among the other owners. However, unlike in most other states, in Texas, the right of survivorship is not automatically recognized, even if your co-owner is your surviving spouse. Therefore, before you title an asset this way, be sure to consult with a Board Certified Texas estate planning attorney.
- Community property. This form of ownership applies to spouses specifically. Although most states are separate property states, nine states—consisting of Texas, Louisiana, New Mexico, Arizona, Nevada, California, Washington, Idaho, and Wisconsin—are community property states. This means that in the eyes of the law, spouses in Texas own equal shares of all income earned during their marriage, as well as a one-half share of the value of all assets acquired during their marriage while they were residing in a community property state (regardless of whose name is on the titles to those assets). They also share equal responsibility for all debts acquired by either spouse during their marriage. The fact that Texas is a community property state will be important if your marriage ends in divorce and you are dividing up your assets and debts.

Warning! In Texas, unlike most other community property states, income generated by separate property assets is community property.

Warning! Because the presumption is that all property of a married couple is community property, it's possible to turn separate property into community property by co-mingling the two in such a way that it becomes impossible to identify who owns what.

Getting Divorced in Texas

To initiate a divorce in Texas, you or your spouse must file an *Original Petition for Divorce* at your county clerk's office and pay a filing fee. The filer is formally referred to as the *Petitioner* and must have been a Texas resident for at least six months. Also, one of you must have been a resident in the county where your divorce is initiated for at least 90 days prior to the filing.

Once a petition has been filed, the *Petitioner* must legally serve the other spouse with a copy of that document by way of a constable, sheriff, or private process server. Then the other spouse, referred to as the *Respondent*, must file an *Answer* with the court, which is basically an acknowledgement that the divorce has been initiated. After that, a 60-day cooling off period begins so that the Filer can decide whether they really want a divorce. Assuming that person does not have a change of heart, your divorce will be final after the 60 days are up. However, as in every other state, finalizing it could take much longer, especially if your divorce ends up in court because you and your spouse cannot agree on the terms of your asset split or matters relating to your minor children and you need a judge to decide them for you.

Texas is a no-fault divorce state, which means that neither you nor your spouse need to prove that the other did something wrong in order to end your marriage. However, if a judge gets involved, they can consider fault when determining how your marital property should be divided up.

Texas encourages couples to work out the terms of their divorce via mediation if they can't reach a settlement agreement by themselves or with the help of their attorneys. In fact, if a

couple cannot come to an agreement, a judge may refuse to set a trial date unless the couple tries mediation.

Warning! There is no legal separation in Texas. Therefore, if you and your spouse live apart while you are working out the terms of your divorce or because you are trying to save your marriage by taking a break from one another, in the eyes of the law any property either of you acquire during this time can be considered community property—regardless of how it is titled.

As in every other state, getting a divorce involves deciding how you will share the property and the debts from your marriage and whether one of you will pay spousal support to the other, unless of course you have a valid pre- or post-nuptial agreement. And if there are minor children from your marriage, you'll also have to make decisions about child custody and support.

Ideally, you and your spouse can resolve all of the terms of your divorce together, but should a judge be involved, what follows is a very brief rundown of what the court will take into account. For detailed information specific to your situation, consult with a Texas family law attorney:

- Division of property. The judge may decide that your community property and debts should be divided up equally. It's possible, however, that the judge will decide that another arrangement would be fairer after taking into account such factors as fault, the age and health of both you and your spouse, the earnings potential of each of you, and how custody will be handled if there are minor children from your marriage.
- Spousal support or maintenance. In Texas, a judge can order one of you to pay the other spousal support (also known as alimony) if any one of the following is true:
 - You've been married for at least ten years and the spouse who is seeking support can demonstrate

that while your divorce is pending, they have made genuine but unsuccessful efforts to earn an adequate income or to develop the skills needed to support themselves

- One of you has committed spousal and/or child abuse
- The spouse asking for support is incapacitated by a disability
- A child from your marriage, regardless of age, has a mental and/or physical disability that prevents the parent responsible for the care of that child from earning an adequate living

Generally, the period of time that spousal support must be paid will be determined by the duration of your marriage, although other factors can be taken into account.

If you and your spouse have minor children together, the judge will decide how to handle child custody and support according to what is in their best interest.

- **Child custody.** In Texas, child custody is known as *conservatorship*. There are three types of conservatorships here:
 - *Joint managing conservatorship.* Both parents share parental rights and responsibilities, although just one parent will be assigned certain kinds of decisions and responsibilities.
 - *Sole managing conservatorship.* Just one parent is legally entitled to make certain decisions on a child's behalf. A judge usually orders this kind of conservatorship when there is a history of family violence by a parent, a parent has a history of drug or alcohol abuse, or has been absent from a child's life for long periods of time.
 - *Possessory conservatorship.* In this arrangement, one parent is not entitled to make any significant decisions for the child, but may have visitation rights and be required to pay child support.

Tip: Parents in Texas are encouraged to detail in a parenting plan how they will share responsibility for their minor children as well as their parental rights.

- Child support. Typically when child support is paid, the noncustodial parent is the one who pays it. The minimum amount of support required is established by a set of state guidelines. However, a judge can adjust the guideline amount based on other factors if it's in a child's best interest. Child support must continue until a child turns 18 or graduates from high school (the later of the two), emancipates by getting married, enters the military, or dies. Also, if a court decides that a child is physically or mentally disabled, support of a child may continue indefinitely. Medical and dental support for a child is also required. Parents can decide themselves how they will provide for this (who will carry a child on their medical and dental insurance policy and who will pay the premiums). If they cannot reach an agreement, Texas law dictates out how this kind of support will be handled.

DYING IN TEXAS

In Texas, you can spell out who you want in charge of your body after you die, as well as what you want to happen to it -- burial or cremation -- in your will, in a pre-paid funeral contract, or in some other written directive that you sign in front of a notary, such as an *Appointment For Disposition of Remains* form.

If you die without having done any of these things, Texas law spells out who will have these rights. In order of priority those individuals are:

- Your surviving spouse
- Any one of your adult children
- Either of your parents
- Any one of your adult siblings

- Any one or more of the executors or administrators of your estate
- Any adult next of kin who according to Texas law is entitled to inherit from you.

Texas does not require embalming. However, if your body will be held somewhere or be in transit for more than 24 hours, it must be embalmed, refrigerated, or encased.

Caskets are not required in Texas either. However, cemeteries and mausoleums may have their own requirements.

Tip: If you want to donate your organs, eyes and/or tissue after you die, register with the Donate Life Texas Registry. It is the only official organ, eye and tissue donor registry in Texas. To learn how you can become a registered donor, go to: WWW.DONATELIFETEXAS.ORG.

If you will be buried, Texas does not require that a licensed funeral director be involved in making or carrying out your final arrangements. In other words, the individual responsible for your body and its final disposition can do that after filing a statement of death and obtaining a death certificate. However, if you die in a hospital, hospice, nursing home, etc., it's unlikely that the facility will release your body to anyone other than a licensed funeral director.

Also, Texas law does not prohibit your body from being buried in your back yard or on some other private property. However, your town, county, deed restrictions, or homeowners association may not permit it.

If you will be cremated, there is a 48-hour waiting period in Texas before that can happen, unless it is waived by a justice of the peace, medical examiner for the area where you live, or court order. Once the waiting period is up, whoever is in charge of your body must sign a form authorizing the cremation, after which a cremation permit will be issued.

Warning! Some crematories require a funeral director to arrange a cremation, while others will accept a body directly from a family.

Your ashes can be scattered anywhere except for places prohibited by federal law, Texas law, local ordinance, or by the owner of the specific property where the ashes are to be scattered. For example, your ashes cannot be spread on the field at AT&T Stadium without permission from the Dallas Cowboys.

Exhibit A, Top Reasons to Love Texas

Many residents of Texas were not born here, but once they arrived, they quickly fell in love with the state. Here are just a few of the reasons why:

- **Beauty.** Traditional stereotypes of Texas depict the state as ugly -- flat, treeless, and full of tumbleweeds. However, it's actually a geographically-diverse state with mountains, forests, lakes, streams, rivers, waterfalls, colorful wildflowers, miles of coastline and vast, awe-inspiring open spaces.
- **Friendliness.** There is a reason why Texas is called "the friendly state." That's because people here are not shy about striking up conversations with strangers, are apt to say "hi" to the people they pass on the street, and are likely to get to know the checkout people at their local grocery store.
- **Music.** Texans have made important contributions to a wide range of music, spanning all genres from Tejano and country to rock and roll, the blues, zydeco, rockabilly, punk, psychedelic and a whole lot more. And although Austin is known as the *Live Music Capitol of the World*, you'll find great music just about anywhere in Texas.
- **Personality.** Once you move here, it will not take long for you to realize that Texas is different from most other

places and that Texans take great pride in those differences, which encompass the state's culture, food, and history. The Texas flag is an obvious example of that pride. You'll see it flying everywhere and it's often used in advertising and featured on clothing and home goods, as well.

- **Tex-Mex.** Texas is home to a unique and hugely popular cuisine that blends food from Mexico with American food. Breakfast tacos—paired with a good hot sauce—are a staple.
- **Barbeque.** Texas is famous for its barbeque, especially beef brisket, ribs, and sausage. Although each region of the state has its own unique style, Central Texas barbeque is the most well-known. Little-known fact: President Johnson hosted the nation's first barbeque state dinner at his ranch in Johnson City.
- **Shiner Bock.** A dark lager, Shiner Bock is brewed in Shiner, Texas at the Spoetzl Brewery, which was established by German and Czech immigrants in 1909. The oldest independent brewery in Texas, the Spoetzl Brewery is also one of the oldest breweries in the US. It began brewing Shiner Bock in 1913 as a Lenten beer. Now, the beer is brewed year-round.
- **Blue Bell Creameries.** This wildly popular brand of ice cream began in 1907 in the little town of Brenham, Texas.
- **HEB.** Founded in 1905, this beloved Texas grocery store chain offers a wide array of products at great prices and has a well-deserved reputation as an excellent place to work. In addition, HEB prioritizes giving back to the community through its disaster relief efforts, hunger relief initiatives, support of public education, and its policy of contributing five percent of the company's pre-tax earnings to public and charitable programs, something it's been doing since the 1930s.

CHAPTER 3

How to Establish Texas as Your Legal Domicile

If you have already moved to Texas, it's important that you become an official Texan. Otherwise, you won't be able to benefit from the tax advantages of living in the state -- for example, there are myriad tax exemptions in Texas, not to mention the fact that there is no state income or estate tax. Also, if you are not an official resident of Texas, you won't be able to vote in local and state elections or get divorced here, and neither you nor your children will qualify for lower tuition fees at state universities.

Becoming an official Texan is about more than purchasing a pair of cowboy boots and learning how to dance the Texas two-step. It requires that you build the case that Texas is your fixed, permanent, primary place of residence—or legal “domicile”—by taking a series of simple steps, many of which we list in this chapter. A good number of these are ordinary actions that you would take simply because you are getting settled here.

Steps For Establishing That Texas Is Your Legal Domicile

Here are some actions you can take to build the case that Texas is your legal domicile. Although it's not necessary to do everything on this list, the more things you do, the stronger your case.

- File a *Residency Affidavit*. Completing and filing a *Residency Affidavit* in Texas is not a legal must-do, but it is a good step to take if you want clear proof that you intend to make Texas your legal state of residence. You will need to sign the affidavit before a Texas notary. A link to the form can be found online at the Texas Department of Public Safety website at: WWW.DPS.TEXAS.GOV (or you can Google "Texas Residency Affidavit").
- Change your mailing address. The fastest way to change your mailing address is to do it online at: <https://movers-guide.usps.com/mgo/disclaimer>. You can also pick up a *Movers Guide* at any local Post Office. You'll find *PS Form 3575* inside the guide, which is the form you need. Fill it out and either hand it to a postal worker at the post office or put it in the mail.
- Also, let all of your creditors and anyone else you deal with on a regular or periodic basis know about your change of address. Do the same with any corporations, partnerships and trusts you have a relationship with. Once you have a new Texas address, use it for all correspondence.
- Get your vehicle inspected, register your car in Texas and get your Texas license plates, and obtain a Texas driver's license or Texas ID. Chapter 2 tells you how to do all of this.
- Open an account with a local bank and then transfer your funds there. You will also want to move your safety deposit box and its contents to your new bank, and you should transfer other financial assets, like brokerage accounts, to an institution in Texas.
- Register to vote. Once you have a Texas driver's license or Texas ID, register to vote in the state by submitting

an application to your county's Voter Registrar's Office, which is the tax-assessor-collector's office in most Texas counties. You can complete the application in person or by mail after obtaining an application online at: <https://vrapp.sos.state.tx.us/index.asp>. You can also find a voter's registration application at any library, government office or high school in Texas.

- Update your estate plan. Review and update your estate plan with a Board Certified Texas estate planning attorney. It's essential that all of the documents in your plan comply with Texas law; they may create significant legal issues otherwise. And if you don't have an estate plan, get one! For information about estate planning in general and in Texas specifically, read Chapter 4.
- Find professionals to work with. For example, locate a general practitioner, a dentist, a CPA, hairdresser, and so on.
- Get licensed in Texas. If you are licensed in your former state as a doctor, realtor, attorney, plumber, electrician, etc., cancel your license or change your status to "non-resident." And if you plan to continue working in your same profession in Texas, get licensed here. Chapter 7 provides information about licensing in the state.
- File your federal tax return using your new Texas address.
- Locate a vet for your pets and take them for a well-check, which also indicates that you are here to stay.
- Purchase a subscription to your local newspaper and sign up with a local cable and Internet provider.
- Get a gym membership.
- Join a house of worship in Texas.
- Get involved in your new community – volunteer or become active with a civic organization or a club.

Warning! Your former state of residence will not just "take your word" that you are a Texas resident. They will want proof and will continue to subject you to taxes until you provide them with adequate evidence of your relocation.

Exhibit A, Texans Talk Different

Many Texans— especially in rural areas of the state, but even in urban areas—have their own unique ways of speaking. Here are just a few of the more common phrases you might hear so that you too can “talk Texan”:

- Y’all. As you might have guessed, this is Texan for “all of you” or “you all.”
- Fixin’ to. This means “getting ready to do something,” like “I am fixin’ to go get some lunch.”
- “Sorry.” If you hear someone refer to another person or to an idea as “sorry,” they are indicating that they believe that person or idea is “a loser,” or not up to par.
- “He’s all hat and no cattle.” This term is used to describe someone who talks big, but does not deliver.
- “I wouldn’t trust him any farther than I could throw him.” As you probably figured, this term is used to describe someone who is untrustworthy.
- “This ain’t my first rodeo.” In other words, “I have experience doing X, Y or Z.”
- “She is dumber than a box of rocks.” No explanation needed!
- “Bless your heart.” This is a phrase some Texans use when they are speaking to someone who has said or done something that is particularly foolish or stupid.

You may also notice that:

- Texans often use the word Coke to describe any brand of soda. For example, if someone orders a Coke at a restaurant the waitress is likely to ask, “What kind?”
- When speaking to a grown man or woman, Texans may say “Miss” or “Mr.” plus that person’s first name, as in “Miss Mary” or “Mr. Rodney.” Also, many Texans say “ma’am” or “sir” when talking to an adult they don’t know well.

- Texans often drop the “g” in verbs, as in: “I’m eatin’ at my parents’ tonight.”
- Many Texans emphasize the first syllable of words. For example, they pronounce “cement” as “SEE-ment,” “insurance” as “IN-surance,” “umbrella” as “UM-brella,” and “adult” as “ADD-ult.”

CHAPTER 4

Estate Planning in Texas

One of the first things you should do after you move to Texas is schedule a meeting with a Board Certified estate planning attorney in the state. This is because if you prepared your estate plan in your former state, it's more than likely that the plan does not completely comply with Texas law, which could be a big problem. And "big problems" usually mean expensive attorneys' fees and even potential issues with the plan's enforceability.

And if you have never had an estate plan, it's time to get one! Dying or becoming incapacitated without one will create tremendous hassles and heartaches for your loved ones and may cost a lot of money too.

This chapter provides an overview of what estate planning is all about, highlights things that are unique to estate planning in Texas (especially if you are married), and details what will happen if you die "intestate" in Texas – the legal term for dying without a will or living trust. Exhibit C at the end of this chapter provides the Last Will and Testament that, according to the Texas legislature, you get if you die without one. This chapter also includes a section entitled *Wills Written in Another State*, which highlights issues you may encounter here in Texas related to wills from elsewhere.

Estate Planning Basics

Estate planning involves, among other things, taking legally appropriate steps to ensure that after your death, the assets you own go to the people and organizations you care about; that your surviving loved ones will be spared the hassles, expenses and delays that occur when a person dies *intestate*; and that if you cannot make your own health care and financial decisions because you've become incapacitated, someone you trust will make them for you.

Every Texas estate plan should include:

- **A will.** A will is a legal document that spells out who should receive your assets when you die. You can also use a will to designate a personal guardian for any minor children (children under the age of 18 in Texas) you may have. If the other parent is also deceased, the designated guardian would be legally entitled to make all of the decisions on your children's behalf that you make now. You can designate a property guardian for your children in your will as well. This person, who may also be your children's personal guardian, would manage the assets your children inherit from you until they are legal adults.

When you write your will, you'll need to designate an *executor*. This individual will initiate the probate process upon your death and ensure that the wishes you expressed in your will are carried out during that process (the probate process is discussed later in this chapter). Although the executor you name can live out of state, it's simpler to name someone who is a Texas resident. If you do designate an out-of-state executor, however, Texas law requires that the executor appoint an in-state agent who will accept legal documents on behalf of your estate if it is sued.

In Texas, for your will to be legally valid, you must be at least 18 years of age and of sound mind when you prepare it; if you are under 18, your will can be legally valid in Texas if you are or

have been lawfully married, or if you are a member of the United States Armed Forces or auxiliary thereof of the Maritime Service. Additionally, in order for any will to be valid in Texas, two witnesses who are both over the age of 14 must be present when you sign it.

A printed will is always best; however, Texas also recognizes holographic wills. A holographic will is one that you prepare yourself in your own handwriting. Holographic wills do not require witnesses to be present, but tend to create havoc and generate *expensive* legal fees at death.

- **Durable Power of Attorney.** You prepare this document to designate the individual you want to manage your financial and legal affairs should you become incapacitated and cannot manage them yourself. This person is often referred to as your *financial agent*.

Warning! The Durable Power of Attorney is NOT effective after your death.

- **Medical Power of Attorney.** This legal document gives another adult the right to direct your health care in accordance with your wishes if you are unable to make your own decisions because of an illness or injury. In Texas, this person is often referred to as a *health care agent*.

Your health care agent need not live in Texas. However, unless they are willing and able to quickly travel here if you become seriously ill or injured, designating someone who is a resident of the state makes far more sense.

- **Directive to Physicians and Family or Surrogate.** Known as an *Advance Directive* or a *Living Will* in some states, this document allows you to specify the kinds of medical care and treatment you do and do not want if you are incapacitated because of a terminal illness or an accident from which you are not expected to recover. Be

sure to give your health care agent, as well as your primary care doctor, a copy of this document.

Tip: In Texas, a physician who is unwilling to comply with the provisions in your Directive must make a reasonable effort to find another doctor to care for you.

- **HIPAA Authorization.** This document allows doctors' offices and insurance companies to share your medical information with the people you designate.

Living Trusts Are Often a Great Estate Planning Tool

Many individuals make a living trust the cornerstone of their estate plan and use their trust, not a will, to distribute their assets. This kind of trust is revocable, which means that you can change or cancel it at any time. It is a popular alternative to a will because:

- When you die, the assets you've transferred to the trust go directly to your trust beneficiaries rather than having to go through probate first. This is because assets that are in the trust are owned by the trust, not by you.
- You can name yourself as trustee—the person in charge—of the trust, which means that you can control, manage, and use the assets in the trust just as you did before your assets were in the trust.
- While you are alive, you can transfer assets into and out of the trust as often as you want without tax problems.
- In your trust document, you can establish terms and conditions related to your beneficiaries' receipt and use of the assets you want them to benefit from.
- Unlike a will, a living trust is not a public document. Therefore, your financial privacy and that of your family is preserved after your death.

- If you become incapacitated, your successor trustee can manage the trust assets according to the instructions you spell out in the trust document.

If you are married, you can create a shared or joint trust to hold any assets you own individually as well as the assets you and your spouse own together. This usually makes sense given that Texas is a community property state. If you and your spouse share a living trust, you will be co-trustees.

Warning! You must prepare a pour-over will if you have a living trust. It will ensure that if for some reason some of your assets don't get transferred to the trust before you die, they will end up there and won't be subject to the intestate laws in Texas. However, since those assets will be controlled by your pour-over will, they will have to go through probate before they can be transferred to the trust.

Estate-Related Taxes in Texas

From a tax perspective, there is a real advantage to living in this state. That is because Texas does not have a state estate tax and there is no inheritance tax in Texas, either. An estate tax is a tax that is imposed after someone dies; it's based on the value of the deceased's estate after all debts have been paid. However, if the value of a Texas estate is extremely large, it may owe estate taxes to the federal government (although with appropriate planning, an estate planning attorney can reduce what the estate will owe).

The amount of the federal estate tax exclusion is in flux. Federal estate taxes are a concern only to estates that are worth more than the exclusion amount. Check with your CPA or estate planning attorney for the current amount.

The inheritance tax is a tax paid by the beneficiaries of someone's estate. It's based on the value of the assets that each beneficiary inherits. No inheritance tax means that beneficiaries get to keep the full value of what they inherit in Texas.

Dying Without an Estate Plan in Texas

If you die without a will or a living trust, Texas's intestate laws will determine who inherits the assets you own; if you own assets in another state, the intestate laws of that state will determine what happens to them. Here is what will happen in Texas:

- If you are married with no children together, Texas law says that your surviving spouse will inherit all of your separate property, both personal and real estate. Your spouse will also be legally entitled to your share of the community property you owned together.
- If you and your surviving spouse had children together, your spouse will be entitled to one-third of your separate personal property with the other two-thirds going to the children. Also, your spouse will inherit all of your community property. *However*, if you have children from a previous marriage, they will be entitled to your half of the community property and your surviving spouse will only get to keep their half. Additionally, your children will be legally entitled to two-thirds of your personal separate property. Your surviving spouse will also have a life interest in any real property you own by yourself. After your surviving spouse dies, that property will go to your children.

Tip: A will or a living trust overrides the provisions of the Texas intestate law that relate to the inheritance rights of your loved ones.

If you have no surviving spouse and no children, your parents or grandchildren will end up with your assets. If none of them are still alive when you die, your assets will be distributed to an ever more distant list of relatives, starting with your siblings. See Exhibit C at the end of this chapter.

Tip: Unless the will or living trust specifies otherwise, children who were born or adopted after a will was written have

full inheritance rights in Texas, and children born out of wedlock do, too.

Probate in Texas

When you die, assuming your estate is worth more than the minimum amount set by law, your will must go through a court-supervised legal process called *probate*. During this process, the validity of your will is determined, any debts you may have owed at the time of your death are paid by your estate, and whatever assets remain are distributed according to the terms of your will.

Tip: If the value of your estate is less than the minimum amount set by law when you die, it can go through a simplified probate process, which is cheaper and faster than the traditional process. To initiate this process, your legal heirs must file a Small Estate Affidavit with your local probate court.

There are things you can do to avoid probate entirely, or at least minimize the number of assets that must go through the process if you want to avoid the cost of probate, minimize any potential probate-related hassles for your loved ones, and ensure that your beneficiaries receive what you leave them as quickly as possible after your death. Another very important reason to avoid probate is that many Texas counties post the deceased's will on the *internet!* This of course, raises privacy concerns and, potentially, makes your loved ones targets for predators.

Assets that avoid probate include:

- Property that you and someone else own as *joint tenants with right of survivorship*. When property is owned this way, the last to die becomes its sole owner.

Warning! Before you and someone else agree to own an asset as *joint tenants with right of survivorship*, talk

to an estate planning attorney. Although this form of ownership may sound attractive, it can create significant potential problems when the first owner dies, especially for spouses.

- Accounts designated as Payable on Death (POD) or Transfer on Death (TOD) accounts. These kinds of accounts are simple and free to create. It's just a matter of telling your bank that you want to designate an account as a POD or TOD account. When you die, the account beneficiary is automatically entitled to the account funds. However, this sort of arrangement, like joint tenants with rights of survivorship, can void carefully crafted provisions in your will or living trust.
- Survivor benefits from an annuity.
- Assets with a designated beneficiary. They include life insurance policies, 401Ks and IRAs.
- Property with a Transfer on Death deed. This kind of deed allows you to transfer real property (land and buildings) to one or more individuals when you die. Existence of the deed does not affect your ability to use the property, borrow against it or even sell it while you are alive.
- Assets that have been transferred to a living trust.

There are other probate avoidance methods, too. Talk about them with an experienced Texas estate planning attorney.

Wills Written in Another State

If you prepared a legally valid will in your former state, it's important that it be rewritten to comply with Texas laws once you move here. Otherwise, life could get complicated for your loved ones after you die. For example, Texas lawyers and judges may need to interpret the will you wrote when you lived in your former state, which is likely to create confusion, delays and increased expenses.

If you own real estate in Texas and in your former state too, your estate may have to be probated in both states when you die. That will mean administrative expenses, court costs, attorney fees and other expenses in two states! However, these costs can be avoided if your property is in a living trust.

Exhibit A, Texans Who Gave Away A Lot of Money in 2020

Every year, *The Chronicle of Philanthropy* compiles its *Philanthropy 50*, which is a list of the top 50 donors in the U.S. for the previous year. Although the people who make this list are extremely wealthy, most of them give away their money with little fanfare, so despite their great generosity, you probably are not familiar with any of them. The Texans who gave away the most in 2020 are:

- Austin resident Robert Smith. Although he dealt with an expensive legal problem in 2020, Smith still gave \$50 million to the Student Freedom Initiative, a nonprofit he founded to help students in STEM programs at historically Black colleges and universities deal with their college-loan debt. Smith has made the *Philanthropy 50* list four times.
- Dallas residents Richard and Mary Templeton. Richard is the CEO of Texas Instruments and Mary is a long-time computer scientist. In 2020, they donated \$51 million to launch the Templeton Institute for Engineering and Computer Science at Union College, which is their alma mater. The money will be used to recruit women who want to pursue degrees in engineering or computer-science.
- Houstonites John and Laura Arnold. This couple gave away \$567 million in 2020. Although they support many causes, they are especially interested in supporting efforts to reduce healthcare costs and to overhaul the criminal justice system. The Arnolds have been included on the *Philanthropy 50* every year since 2011.
- Houston residents Richard and Mary Kinder. The couple's Kinder Foundation focuses on improving the lives of

Houstonites by giving to programs and nonprofits that focus on urban green space, education and quality of life issues. In 2020, their foundation donated more than \$50 million in grants. 2020 is the fourth time that the Kinders have been included on the *Philanthropy 50* list.

- Midland residents Daniel and Jennifer Hord. In 2020, this couple, both of whom are graduates of Baylor University in Waco, Texas, donated \$30 million to create the Hord Scholarship Challenge. Their goal is to help address students' financial aid needs. They hope to encourage other Baylor alumni to match their gift.

Exhibit B, Ten Famous People Who Died Without Wills

All of the people listed below died without a will. Some of them were extremely wealthy. In most instances, because they had no will, the legacies they left their families were years -- decades, in some instances -- of discord, conflict and involvement with attorneys and the courts. In some cases, the individuals who ultimately ended up with their assets were probably not the ones they would have chosen if they had prepared an estate plan.

- Aretha Franklin. Singer
- James Brown. Singer
- Elvis Presley. Singer
- Howard Hughes. Entrepreneur and billionaire
- Martin Luther King, Jr. Civil rights leader and activist
- Abraham Lincoln. Attorney and 16th president of the United States
- Steve McNair. NFL quarterback
- Pablo Picasso. Artist
- Prince. Singer
- Billie Holiday. Singer

Exhibit C

Last Will and Testament (According to the Texas Legislature)

If you have not created a valid Will, the Texas legislature has drafted one for you. It certainly may NOT be what you want, but here it is:

I.

Separate Property*: If I am married and have children, I will, bequeath and devise unto my children in equal shares two-thirds of all of **my separate real estate**. My spouse shall have a life estate only in the remaining one-third, and at my spouse's death that, too, shall be given equally to my children. **My separate personal property** shall be given two-thirds to my children and the remaining one-third outright to my spouse. **If I do not have children**, I give half of my separate property real estate to my spouse and half **to my parents**. My spouse will inherit all of my separate personal property. If I do not have children, living parents, siblings, nieces or nephews, I give my spouse all of my community and separate property.

If I am not married and have children, I will, bequeath and devise unto my children all of my property. **If I am not married and do not have children**, then I give all of my separate property to my parents. If I do not have children or living parents, then I give my extended family (siblings, nieces, nephews, cousins) all of my property even if I do not like them, and even if I have never met them or know them. If my extended family cannot be located, I give all of my property to the **Government. Furthermore**, even if my property goes where I want it to, I desire to spend extra money getting it to them, I want them to have to hire at least one extra lawyer, and I wish for it to take longer than it would if I had not **waited too long**.

***Separate Property** is all of your property if you are not married. If you are married, separate property generally consists of property you owned before you were married, received by gift, inheritance or a personal injury settlement or for post-death purposes, assets acquired while residing in a non-community property state.

II.

Community Property:** If I am married and I have children, I will, bequeath, and devise unto all **my children** equally, my entire one-half of all of the community property, including my half of our home, furnishings, cars, savings accounts, checking accounts, stocks and **all** of my other **community property** if I have at least one child by a **prior relationship**. In other words, I give my children my entire half of everything that my spouse and I have acquired since we were married. **Only if all of my children are by my current spouse**, then my spouse shall inherit all of my community property.

****Community Property** for post death purposes is generally property acquired by a married person while residing in a community property state, except assets that are inherited, received by gift or as a result of a personal injury recovery. Texas, Louisiana, New Mexico, Arizona, Nevada, California, Washington, Idaho and Wisconsin are the only Community Property states.

III.

Financial Guardians for Minors: If I am married with minor children, my current spouse may be appointed guardian of our **minor children's** assets until they are eighteen years old, but only with the approval of the court. If I am divorced, **my ex-spouse may be appointed as guardian** of the portion of my home, furnishings, cars, savings accounts, checking accounts, stocks, and all other of my community and separate **property that I leave my children by my ex-spouse**. **My current spouse** may be appointed **guardian only** of the portion of my property that

I leave *our* children. As a further safeguard, I direct my spouse, my ex-spouse, or whoever the court has appointed guardian of my children, to purchase for the probate court a **performance bond** to guarantee that proper judgment is exercised in the handling, investing and spending of the children's money. If I have minor children, the guardians of my children's assets must file a **complete accounting** with the **probate court yearly**. The accounting must show, in detail, how, where, and why every dollar necessary for their proper care was spent during the previous year.

IV.

Custody of Minors: If my spouse predeceases me while any of **my children are minors**, I do not wish to exercise my right to name a guardian for my children, even though I recognize the **probate court** may act on very limited information and may appoint someone whom I consider **totally undesirable** to care for my beloved children. I direct the court, if it considers it in their best interest, to appoint even a **complete stranger** as their guardian.

V.

Money and Property to Children: If I have **minor children**, then when my children reach the **age of 18**, they shall have full rights to withdraw and **spend** all of their share of my estate; this includes any life insurance and retirement accounts, if they are named as the beneficiary. **No one shall have any right to question my children's action** on how they decide to spend or give away their respective shares regardless of the maturity of my children. I have decided not to provide any direction for my children about who should get any particular property; instead, **I prefer that my children fight-it-out** over my property regardless of whether this **destroys** their **relationship** and **devastates** any of my **business interests or investments**.

VI.

Bonding: As a further safeguard, I direct my **spouse**, or whoever the court has appointed **administrator** of my estate, to purchase for the probate court a **performance bond** to guarantee that proper judgment is exercised in the handling, investing and spending of the estate's money. I want the probate court to feel free to appoint a **corporate trust company** as the administrator, even if the **fees** charged by the company may be **very high**.

VII.

Incapacity: I do not wish to exercise my right to select someone I love and trust to make medical and financial decisions for me if I become **mentally incapacitated**. I direct the probate court to appoint two guardians for me, one for managing my **medical care** and the other for **managing my money**. I understand that this could result in the employment of perhaps **three** or more **attorneys** and that I will have no control over who the judge appoints. I direct the court, if it considers it in my best interest, to appoint even **complete strangers** as my guardians, knowing full well that the medical guardian has the power to put me in any nursing home that he or she may decide is appropriate, and that the financial guardian, with supervision by the court and the lawyers, will control how my money is invested and spent.

VIII.

Medicaid: Because I *did not buy* Long Term Care insurance and *failed to plan* for my disability, if I ever receive **Medicaid** then **I give my house to the State of Texas**.

IX.

Taxes and Attorneys Fees: Under existing law, there are certain legitimate legal avenues open to me to lower the death tax rates, ensure privacy, reduce court costs, legal fees, and other expenses related to the administration of my estate and the care of my

children. I do not want to take advantage of any of these avenues. **I prefer to pay the maximum death taxes and attorney's fees possible**, rather than give it to either my family or my favorite charity. I have signed and set my hand **this one day after my last day to plan - the day after my death.**

I Waited Too Long

CHAPTER 5

Protecting Your Assets in Texas

The ability to protect your assets from creditors is a big advantage to living in Texas because the state offers some of the best asset protection opportunities in the nation. This means that if you are on the losing end of a lawsuit in this state, more of your hard-earned assets will be safe from the *judgment creditor* (the party who won the lawsuit) than in most every other state, assuming you plan appropriately ahead of time.

What is Asset Protection?

Asset protection is an important component of a well-designed estate plan, especially in a country as lawsuit-happy as ours. It involves taking proactive steps -- actions that are legal and ethical -- to protect your assets, both personal and business, from the consequences of a plaintiff getting a judgment against you.

Tip: You cannot create an asset protection plan if a lawsuit is expected, pending, or threatened -- you must PLAN AHEAD!

If you are on the wrong side of a lawsuit and you have not done the appropriate planning, losing some of your assets could affect

your ability to maintain your current lifestyle, fund your retirement, and pay for your children's college educations. It could also affect how much you have to leave to your loved ones and to the charities you value after your death.

Here are some examples of when having an asset protection plan in place would be of benefit:

- Someone claims that you harmed them in some way -- in a car accident, for instance.
- You fall behind on a debt.
- You own rental property and one of your tenants gets hurt on the property and sues you.
- You get sued by a business partner.

Warning! Don't assume that asset protection planning is just for the wealthy! It's for those in the middle class too. In fact, it can be argued that asset protection planning is especially important for middle class people because having to pay a judgment will take a proportionally bigger bite out of their estates (everything they own) than that same judgment would take out of a larger estate.

Having an asset protection plan is particularly important if you:

- Own assets that are especially prone to lawsuits. Examples of such assets include rental property and swimming pools.
- Are a business owner. Depending on how you structure your business, your business assets as well as your personal assets could be at risk if your business is sued. Chapter 7 in this book discusses which forms of business put both kinds of assets at risk.
- Are in a lawsuit-prone profession. You are a doctor, dentist, architect, attorney, CPA, or engineer, for example.
- Are about to marry and you either own assets that you do not want to lose should your marriage end in divorce, or you have children from a previous marriage and you want

to be sure that they will end up with some of what you own should you die before your spouse.

- Have minor children (children under the age of 18 in Texas). You can be held financially responsible for their actions if they harm someone or damage someone else's property, whether their actions were deliberate or not.

Asset protection planning helps protect you by discouraging lawsuits and encouraging settlements. Lawsuits are expensive, time-consuming and emotionally exhausting, so if someone knows that all or most of your assets are protected, they may be less inclined to sue you. Also, if you are sued and lose, the judgment creditor may agree to settle the judgment for less than the full amount if, because of your planning, it will take considerable time and money to collect from you. And, if the full judgment amount is relatively small, the creditor may decide not to try to collect from you at all.

Warning! Never try to prepare your own asset protection plan! It's essential that you work with a Board Certified estate planning attorney who has asset protection planning experience. Trying to create your own plan is risky business, and like playing with fire, you could get burned. Leave asset protection planning to a professional.

What Does an Asset Protection Plan Look Like?

There is no one-size-fits-all asset protection plan because a good plan should always reflect the nature and value of your assets, the risks you face in your personal and professional lives, and other considerations. However, at a minimum, every asset protection plan involves:

- Maximizing your property exemptions. Texas offers many generous exemptions.
- Purchasing the appropriate types and amounts of insurance.

In addition, depending on your situation, your estate-planning attorney may also suggest:

- Negotiating a prenuptial or postnuptial agreement.
- Transferring property out of your name.
- Setting up a legal entity such as a limited partnership, limited liability company or an asset protection trust.

Property Exemptions in Texas

Property exemptions are assets that by law, a judgment creditor cannot take from you. Every state has its own set of exemptions, but the ones provided by Texas law are among the most generous in the nation. Therefore, the first line of defense in any asset protection plan is the maximization of those exemptions.

Tip: The federal government has a set of exemptions too. If you file for bankruptcy, Texas allows you to choose between its own exemptions and the federal ones.

- Homestead Exemption. In Texas, your primary residence is referred to as your *homestead* and the Homestead Exemption is one of the most important exemptions in the state. It's important because:
 - With a few exceptions, no matter how much your homestead is worth, it is fully protected from most collection actions. In other words, your homestead is off limits to the vast majority of creditors. There are restrictions on how much land you can fully exempt, however. If you own an urban homestead, for example, any acreage up to ten acres is exempt regardless of its value. If you own a rural homestead, any acreage up to 200 acres is exempt, assuming you live on the homestead with your family. If you reside there by yourself, up to 100 acres of your land is exempt (again, regardless of its value).

- It entitles you to other property tax exemptions, each of which will lower the taxable value of your homestead and reduce the amount of taxes you owe as a result. They are discussed in Chapter 6 of this book.

Warning! If you sell your homestead, a creditor cannot seize the sales proceeds for six months after the official date of sale, assuming you use the sales proceeds to purchase a new homestead for yourself. Also, during that same six-month period, you should not mix the sales proceeds with any non-exempt funds you may own, like the money in your bank account. If you do, you risk turning some of the sales proceeds into a non-exempt asset, which a creditor could take.

Although your homestead is fully protected from most creditors, you *could* lose it if it is secured (collateralized) by a mortgage, home equity loan, or home equity line of credit and you fall behind on one of those debts. You could also lose your homestead if you fall behind on your property or federal income taxes. Also, if you do not pay a contractor who did work at your homestead, the contractor may be legally entitled to place a lien on your home and, eventually, foreclose on it.

If you are worried that you may lose your homestead because of your debt problems, contact a Texas Board Certified consumer bankruptcy attorney right away. If you file for bankruptcy, all creditor collection efforts will be halted immediately, which will give you time to figure out how you might be able to hold on to your home. Also, because of Texas' generous property exemptions, you'll be able to hold on to many other assets if you file for bankruptcy.

- Other property exemptions in Texas. In addition to the homestead exemption, Texas residents get to benefit from numerous other property exemptions. Here is a partial list:
 - Personal Property. A vehicle, jewelry, clothing, home furnishings, athletic and sporting equipment, a burial

plot, health aids and pets. Also, two horses, mules or donkeys, a saddle, bridle and blanket for each, 12 head of cattle, up to 60 of other types of livestock, and 120 fowl. This is Texas, after all!

- Life insurance. The present or cash value of your policy, as well as any proceeds you may receive as the beneficiary of a life insurance policy.
- Annuities. The value of the commercial annuity you may own. Charitable or private annuities are not exempt.
- Any court-ordered spousal support and maintenance payments you may be receiving.
- Wages. Any earned but unpaid wages you are entitled to, unless you are past due on your court-ordered child support.
- Retirement accounts, including the funds in your Individual Retirement Accounts (IRAs) – traditional and Roth – as well as the money in your Simplified Employee Pension (SEP) if you are self-employed.
- The funds in any prepaid college savings plans – 529 accounts – you may have set up for your children or grandchildren.
- The tools and implements you need to earn a living.
- The vehicles you need to earn a living, such as farming or ranching vehicles.

How to Maximize Your Exemptions

Your estate planning attorney will suggest things you can do to fully benefit from the exemptions to which you are entitled. For example, the attorney may recommend that you:

- Turn your nonexempt assets into exempt assets. One way of doing so would be using cash in your bank account (a nonexempt asset) to purchase a cash value life insurance

policy or an annuity (exempt assets), and another would be to invest the cash in your retirement account.

- Maximize the amount of equity you have in your homestead by paying down your mortgage and/or by paying off the outstanding balance on your home equity loan or home equity line of credit.
- Make annual gifts of cash to your children or grandchildren by contributing to their 529 Plans, which are pre-paid college plans.
- Maximize your participation in tax-deferred retirement plans.

Warning! You may not be able to do most of these things once a lawsuit is expected, pending, or threatened.

Insurance

Purchasing insurance is an affordable and easy way to protect your assets. Several kinds of insurance to consider are:

- **Liability insurance.** Homeowners insurance and auto insurance are the two most common kinds of liability insurance and both protect you if you injure someone or damage someone's property. Liability insurance covers the costs associated with the injury or damage (less the amount of your deductible), up to a maximum dollar amount. It also pays the cost of your legal defense if you are sued, and if you lose the lawsuit, the insurance will pay the judgment amount up to the value of your policy.

You may also want to purchase an umbrella insurance policy. This kind of policy provides additional coverage beyond what your basic homeowner and auto policies provide.

Tip: Good asset protection planning involves trying to settle a lawsuit by driving down the amount of a judgment to the

amount of insurance you carry and then letting your insurance company pay the claim. And by the way, in Texas, the *Stowers Doctrine* protects you if your insurance company refuses to settle a lawsuit by requiring the company to fairly consider an offer that is within the limits of your policy.

Although a basic homeowner's policy in Texas protects you from losses caused by fire, lightning, storms, hail, vehicles and theft, among other things, it probably won't cover:

- Damage due to floods or earthquakes. Although earthquakes are not common in Texas, some parts of Texas have experienced bad flooding in recent years due to extreme weather. In order to cover that kind of loss, you must purchase flood insurance.
- Damage done to your landscaping by wind or hail.
- Termite damage, as well as damage done by other insects, rats or mice.
- Damage caused by continuous water seepage.
- Frozen pipe damage that occurred while your home was unoccupied, unless it was heated or the water was turned off.
- Damage done to your home if it was unoccupied for at least 60 days.
- Normal wear- and-tear.

Additionally, a basic auto liability policy in Texas may not cover damage:

- Done to your *own* vehicle in an accident that you cause, or any injuries you may suffer as a result of the accident.
- Done to your vehicle that is not the result of a collision. For example, a dead tree limb falls on your car, badly denting its roof and hood and breaking its front window.

If you want these kinds of problems covered, you'll usually need to purchase collision and comprehensive insurance.

- **Health insurance.** Given the high costs of health care -- and especially hospitalizations -- in this country, health insurance is essential, especially considering that unpaid medical bills are the leading cause of bankruptcy in the U.S.
- **Disability insurance.** This kind of insurance replaces a portion of your lost income if you are unable to work because of an illness or injury. Even if you have this kind of coverage through your employer, you may want to supplement that policy by purchasing an individual policy.
- **Long-term care insurance.** Long-term care insurance covers the cost of care in a nursing home and an assisted living facility. Some policies also cover the cost of at-home help with tasks related to day-to-day living. Not having this kind of insurance will put a serious dent in your retirement nest egg should you need long-term care.

Property Transfers

Another way to protect some kinds of assets is to transfer their ownership out of your name and into the name of someone else. For example, you could give your daughter the title to your lake house and your son the title to your sailboat. However, unless you make such a transfer before a legal claim against you is pending, expected, or threatened, a judge may view the transfer as fraudulent and void it. If that happens, a creditor with a judgment against you could go after the asset you tried to transfer out of your name.

On the surface, making someone else the legal owner of your property may seem like an easy way to protect an asset; however, it comes with some significant potential drawbacks, each of which could create stress in your life and even drive a rift

between you and the person to whom you give an asset that you own. This is because:

- You will no longer be entitled to control the asset you give away. For example, you give your daughter your lake house with the understanding that you could use it for a month each summer; now that the home is hers, though, she reneges on your deal.
- You are unhappy with how the new owner is managing an asset you gave away. For example, you don't like the way your daughter has redecorated the lake house, or after giving your son your cherished sailboat, he sells it.
- The new owner of your former asset loses it to a creditor. For example, your son defaults on a large line of credit he had with his bank and the bank takes his sailboat.
- Without careful planning, giving away your property could trigger a federal gift tax.

Warning! If you transfer to someone else an asset that is secured by an outstanding loan, the lien on that asset does not go away. Additionally, if you transfer it without permission from the lender, it could trigger a foreclosure or repossession.

Advanced Asset Protection Tools

In addition to the simpler asset protection tools already discussed in this chapter, your attorney may recommend more sophisticated tools depending on the value and nature of your assets, your risk for being sued, and other considerations. These other tools include:

- Limited Liability Company (LLC) or Family Limited Partnership (FLP). Both of these options allow you and your spouse to benefit from your family assets while you are alive and make it possible for other generations of your

family to benefit from them later. Of the two, an LLC is less expensive to set up, but an FLP may be more effective.

- Domestic Asset Protection Trust (DAPT) or an offshore trust. These are known as *asset protection trusts*. Once you transfer assets to these kind of trusts, both of which are irrevocable, the trust owns them, not you. Therefore, creditors cannot take the assets away from you. Only a few states offer DAPTs and Texas is not one of them. However, you can benefit from a DAPT anyway. Offshore trusts are expensive to set up and administer so they are best suited for individuals with significant wealth.

These asset protection tools are complex and beyond the scope of this book. If you are interested in learning more about any of them, contact a Board Certified estate planning attorney in Texas.

Exhibit A, Myths About Texas

- Everyone wears boots and a cowboy hat. People who work on ranches in rural areas wear boots and a hat because they are practical, but far more Texans wear such garb because a great pair of boots and a cool cowboy hat can make a fashion statement at certain events.
- Everyone drives a pickup truck. Yes, Texas has its share of pickup trucks, but these days you are just as apt to see people driving an SUV or a domestic or foreign-made sedan.
- Texans ride horses to work. People who live and work in the state's urban centers drive cars, take mass transit, jump on scooters, ride bikes, take Lyft or Uber, or walk to work. You will see very few horses on our highways!!!
- People speak with a drawl. Maybe in rural areas, but drawls are rarer in Texas cities, y'all.
- Texas is flat, arid and full of cactus. The climate and landscape in Texas is about a lot more than the desert. Yes,

the Chihuahuan Desert is in Texas, but so are verdant forests, miles and miles of coastline, mountains and hills, and many lakes and streams. Also, some parts of Texas are humid while others tend to be dry or a mix of both. Bottom line, in a state as big as Texas, there are many climates and landscapes.

- Texans love guns. It's true that there are more gun owners in Texas than in any other state. However, according to a poll conducted in early 2020 by the University of Texas and the Texas Tribune, 79% of Texans favor mental health and criminal background checks for all gun sales.
- Texans are uneducated. Hardly. One of the reasons why so many companies are attracted to Texas is because of the state's educated workforce. Furthermore, the universities in this state, many of which are top-ranked nationally, are world-famous. Their professors and alumni include Nobel laureates, Pulitzer Prize winners and recipients of other prestigious awards.
- Texas women have "big hair." That may have been a thing in some parts of Texas back in the 80s, but not (usually!) anymore.
- Texas is part of the Bible Belt. Yes, the state has its share of Evangelicals, but Catholics actually comprise the largest religious population here. Jewish synagogues are found throughout the state; also, there are more Muslims in Texas than in any other state.
- All Texans listen to on the radio is country music. Sure, there are country music radio stations here, but in a place as culturally diverse as Texas, you can find just about anything on the state's more than 1,000 FCC-licensed AM and FM radio stations. Their formats include: album rock, Tejano, Spanish, classical music, NPR, Asian/Hindi, Spanish, classic rock, Christian, religious, urban contemporary, news/talk, ethnic, Chinese, Vietnamese, and sports, to name just a few.

CHAPTER 6

Personal Taxes in Texas

In 2021, the World Population Review, a website dedicated to global population trends and data, ranked Texas as the 6th lowest-taxed state in the nation after taking into account the income, sales and property taxes in all 50 states. However, considered individually, some of these types of taxes are relatively high in Texas. In other words, Texas taxes are a mixed bag.

Let's Consider the Good News First

In large part, Texas ranks well in regards to taxes because it's one of just eight states in the nation without a personal income tax. Of course, as a Texas resident, you may owe taxes to the federal government.

Tip: Texas does not tax Social Security or other retirement benefits.

And when it comes to estate planning, there is more tax-related good news:

- There is no estate tax here. The estate tax is a tax on the value of a deceased's estate. It's often referred to as the *death tax*. No estate tax means that regardless of how much your estate may be worth when you die, it

will not owe a penny to the State of Texas. However, depending on its value, your estate may owe federal estate taxes, but that would be true no matter your state of residence.

- There is no inheritance tax in Texas. An inheritance tax is a tax that someone who inherits money or other assets from a deceased person may have to pay.
- And, like the vast majority of states in this nation, Texas does not have a gift tax. Therefore, the only gift tax you may need to plan for is the federal gift tax. At the time this book was written, federal law allows someone to gift up to \$15,000 worth of assets every year to as many individuals as they want without there being any tax consequences. If you gift someone more than that amount in any year, you will have to file a special form with the IRS and any amount of your gift that exceeds your annual \$15,000 exemption will count against your federal lifetime gift tax exemption, which is \$11.7 million in 2021. The amount of this exemption is subject to change—up or down.
- There is no individual capital gains tax in Texas, either. A capital gains tax is a type of tax that occurs on the profits from the sale of an asset.
- Additionally, there is no tax on tangible personal property (such as cars or boats) in Texas.
- And finally, there is no intangibles tax in Texas. An intangibles tax is a local tax that is levied on gross earnings from intangible assets (assets that do not have a physical existence). Examples include: savings accounts, money market accounts, stocks, bonds, and accounts receivable.

And Now For The Bad News

Although residents of Texas don't have to pay some of the types of taxes that residents of some other states do, there *are* taxes in

Texas. And some are relatively high, primarily because there is no state personal income tax. For example:

- There is a sales tax, and it's high. In fact, the Tax Foundation, a leading independent tax policy nonprofit, ranked the Texas sales tax as the 14th highest in the nation. At the time this book was written, the Texas basic sales tax was 6.25%. Sales tax revenues help fund public services like schools, health care human services, prisons and transportation. Over-the-counter and prescription drugs, as well as unprepared foods (aka groceries) are exempt from the tax.

Tip: There are four state sales tax holidays every year in Texas, each of which occurs on a weekend and focuses on specific kinds of purchases. The best-known sales tax holiday occurs in August and applies to back-to-school supplies.

Texas also allows cities, counties, special purpose districts and transit authorities to charge their own sales tax of up to 2%. Therefore, residents of most large cities in Texas are taxed at 8.25%.

- Property tax rates in Texas are high even though the cost of real estate is relatively low. In fact, according to the World Population Review, Texas property taxes are among the highest in the nation. In 2019, for example, the state's median property tax rate was 1.8% per \$100,000 of assessed value, and only two states -- New Jersey and New Hampshire -- had higher medians (the median tax rate is the median tax payment of a state divided by the median home price).

Property Tax Exemptions

Because property tax rates are high in Texas, you'll want to take advantage of all of the tax breaks or exemptions you are entitled

to here—and they are considerable. They include, but are not limited to the following:

- **Homestead exemption.** This exemption gives you an automatic discount on the amount of taxes you must pay to your local school district, city, and county. In Texas, your homestead is the home you own and live in as your permanent residence. To qualify for this exemption in any given year, you must have been residing in your homestead as of January 1 of that year.

Tip: An added benefit of the homestead exemption is that the taxes on your homestead cannot increase any more than 10% from year to year.

- **65 years of age and older exemption.** If you are at least 65 years of age, you qualify for a freeze on the school taxes in your school district. After you qualify for this exemption, the amount of taxes you must pay to your local school district is frozen unless you add value to your home (you build an addition, for example). At that point a new amount will be calculated.

Tip: An added benefit of the 65 and over exemption is that you can stop paying (or defer) property taxes on your homestead, although a “penalty” will accrue every year that you don’t pay them. Check with your county as to the amount of the penalty. The total unpaid amount plus the accrued penalties will have to be paid once you no longer own your homestead. Some people use this as an informal reverse mortgage because the amount they save annually by not paying property taxes can stay in their savings account. However, if you have a mortgage on your home, your mortgage company will most likely prohibit you from not paying property taxes.

- **Disabled person's exemption.** If you qualify as disabled according to the Social Security Administration's guidelines, you can take advantage of an exemption that is much like the one for those who are at least 65 years of age. However, you are not entitled to both exemptions.
- **Disabled veterans exemption.** Some disabled vets qualify for an exemption. The exact amount depends on the severity of their disability. Their surviving spouses may be entitled to the same exemption.

To apply for one or more of these residential homestead exemptions, you must file an application with your county appraisal district between January 1 and April 30 in a tax year. You can find the application online. Once you receive an exemption you will not have to reapply unless the chief appraiser for your county appraisal tells you that you must.

Other Taxes in Texas

There are some additional personal taxes in Texas. They include:

- **Gas tax.** Currently, the tax on unleaded gasoline in Texas is 20 cents/gallon for both unleaded and diesel fuels, which puts Texas on the lower end of the spectrum nationally.
- **Cigarette tax.** All states have a cigarette tax. In Texas, you'll pay \$1.41 in state tax for each pack of cigarettes you purchase, which is relatively low.
- **Motor vehicle sales tax.** When you purchase a motor vehicle from a dealer you'll have to pay a 6.25% tax on the purchase price minus the value of any trade-in allowance. Also, if you purchase a vehicle in another state and bring it into Texas, you will owe a use tax, which amounts to 6.25% of the sales price, less credit for the sales or use taxes you paid to the other state. And finally, a new Texas resident must pay a new resident tax in lieu of a use tax on

any vehicles they bring into Texas from another state or country, if the vehicles were registered in their name. As previously mentioned, you do not have to pay an annual tangible personal property tax on your vehicle; you will pay to inspect and register it annually, though.

Exhibit A, Fun Facts About Texas

- Between 1836 and 1845, Texas was an independent nation and had its own red, white, and blue flag with a single white star. The star inspired Texas's nickname, *The Lone Star State*. In 1845, Texas became part of the United States. Texas has retained the right to fly its flag at the same height as the American flag ever since.
- The name of the popular North Texas theme park, Six Flags Over Texas, was inspired by the fact that at various times in the state's rich history, the Spanish, French, Mexican, Republic of Texas, Confederate and U.S. flags have flown over Texas.
- Restaurant owner Mariano Martinez invented the frozen margarita machine in Texas. The original machine is on display at the Smithsonian's National Museum of American History in Washington, DC.
- Also invented in Texas: Liquid Paper, the microchip, the pacemaker, the hand-held calculator and stadium nachos.
- Most of Texas has its own power grid and produces its own energy.
- The Texas Rangers is the oldest statewide law enforcement agency in the country. Although its origins date back to 1823, the Texas Rangers were not officially constituted until 1835. The Rangers' initial mission was to protect early settlers along the Texas frontier from Indian attacks.
- Rodeo is the official sport of Texas.
- The bluebonnet is the Texas state flower. This wildflower blooms between March and May (depending on the

weather) and blankets Hill Country fields and roadsides. Texans love to take photos of their children and pets sitting in the bluebonnets and to drive along roads where bluebonnets are especially prevalent. Burnet, Texas is the Bluebonnet Capitol of Texas and home to an annual bluebonnet festival.

- Texas native Lady Bird Johnson was instrumental in the beautification of the area around what was then known as Town Lake in downtown Austin. The lake is now known as *Lady Bird Lake*. Because of her efforts, a series of hike and bike trails were created around the lake, hundreds of trees and shrubs were planted, and the area is now a center for recreational activities and live music. Also, Lady Bird and actress Helen Hays founded Austin's National Wildflower Research Center, which was later renamed the *Lady Bird Johnson Wildflower Center* and is part of UT Austin.
- Texas has 3,700 streams and 15 major rivers, which together account for more than 191,000 miles of waterways. Also, the state is home to 213 species of reptiles and amphibians, 145 species of mammals, and 600 different bird species, more than any other state.
- The nine-banded armadillo lives in rural and urban areas of Texas. This unusual mammal has an armor-like shell, pointy snout, long tapering tail, short legs and long claws that it uses to dig for insects. The armadillo is one of Texas's three official state mammals. The Texas Longhorn and the Mexican free-tailed bat are the other two.

CHAPTER 7

The Low Down on Doing Business in Texas

Texas is a great place for businesses. There is no state corporate or personal income tax, the regulatory environment is extremely attractive, it is home to a highly skilled work force, and energy and land costs are relatively low. In addition, the Texas government, as well as many local governments and private organizations, offer a variety of special programs and incentives to help businesses here succeed. These are just a few of the reasons why Texas consistently ranks as one of the most business-friendly states in the nation. Bottom line, the entrepreneurial spirit is alive and well in the great state of Texas.

This chapter provides a basic overview of what you need to know if you plan on operating a business in Texas, regardless of whether you intend on relocating an existing business to this state or beginning a brand new business here. No matter what your plan, however, be sure to consult with a Texas CPA and a business attorney after reading this chapter. These professionals can help you decide how best to structure your Texas business and ensure that you fully understand all of your legal obligations as a business owner in this state.

If You Want to Move Your Existing Business to Texas

Moving a business to Texas involves many things. For starters, you will need to find a location and office space, hire employees, purchase furniture and equipment, and obtain the permits, licenses and certifications you may need. But before you tackle these tasks, it's essential that you understand your options for relocating your business to Texas.

If you are operating your business as a sole proprietorship or general partnership, relocating it to Texas is simple. It is mostly a matter of filing an *Assumed Name Certificate* or DBA (Doing Business As) with the county clerks in the counties in which you intend to conduct business, assuming you do not intend to operate the business under your own name.

The process is more complicated if your business is a corporation, a Limited Liability Company (LLC), or a Limited Partnership (LP). What follows is a very simplified run-down of your relocation options. You can:

- Register your business as a *foreign entity* in Texas if you want to continue it in your current state *and* operate it here too. This option has some drawbacks, however. For example, you will have to pay a registration fee to the State of Texas and perhaps an annual fee to your current state as well.
- Dissolve your current business and re-establish it in Texas as a brand new business.
- Convert your business. This involves changing your current business to a Texas business assuming a conversion is allowed by the state where your business is currently registered. If it is, you'll have to comply with the conversion laws of both states and fill out a lot of forms.
- Create a new business in Texas and merge your current business into it.

Warning! If you do a conversion or a merger, make certain that your business's name is available in Texas. You can do that by contacting the office of the Texas Secretary of State

at: (512) 463-5555 or by going to their website at WWW.SOS.STATE.TX.US.

Tip: Regardless of how you relocate your business to Texas, consider what to do about the contracts your business may have entered into in your current state and any other responsibilities it may have there. Also, review your business's legal documents and written policies in light of Texas laws and revise them with a Texas attorney as needed.

Establishing a Brand New Business in Texas

If you intend to begin a new business in Texas, one of your first and most important decisions should be how to structure it. Your options are:

- **Sole Proprietorship.** The simplest kind of business structure, many sole proprietorships are operated under the name of the owner. If you decide to operate your business under a different name, you will need to file an *Assumed Name Certificate* (DBA form) with the clerk's office in any county where your business will maintain an office or do business and pay a fee to each office as well. In addition, each of your DBAs must be notarized and include your original signature.
- **For Profit Corporation.** If you structure your business as a corporation, you must register it with the Texas Secretary of State and pay a fee.
- **Professional Corporation (PC).** This is a special kind of corporation that is created to deliver a professional service that requires a state license and that a typical corporation is legally prohibited from providing. You must register your PC with the Texas Secretary of State and pay a filing fee.
- **Professional Association (PA).** This is a professional entity that is created to provide professional medical services. A doctor of medicine, doctor of osteopathy, doctor

of podiatry, a dentist, chiropractor, optometrist, therapeutic optometrist, veterinarian, or mental health professional, each of whom must be licensed by the state of Texas, would form one. PAs must register with the Texas Secretary of State and pay a fee.

- **General Partnership.** Two or more individuals, each of whom is referred to as a *partner*, create this form of business. All partners share their business's assets and liabilities equally and are personally liable for their business's debts. General partnerships do not need to register with the State of Texas. However, like sole proprietorships, if a partnership operates under an assumed name, i.e. one that does not include the last names of all the partners, it must file an Assumed Name Certificate with the office of the county clerk in every county where it will have a premise or conduct business, in addition to paying a fee to each of those offices.
- **A Limited Liability Partnership (LLP).** The key difference between an LLP and a general partnership is that in most instances, the partners in an LLP are not personally liable for their business's debts. If you want to set up an LLP, you must file a Certificate of Formation with the Texas Secretary of State and pay a filing fee.
- **A Limited Liability Company (LLC).** To create this kind of business you will need to file a *Certificate of Formation* with the Texas Secretary of State and pay a filing fee. As its name implies, an LLC limits the personal liability of its owners for the financial obligations of their business and may offer them tax advantages as well. The owners of an LLC are referred to as *members*.
- **Professional Limited Liability Company (PLLC).** This is a special kind of LLC that offers tax benefits and limited liability protection to professionals, including lawyers, CPAs, accountants, architects, doctors, dentists, mental health professionals, and veterinarians, all of whom must be licensed in the state of Texas. To create a PLLC, you

must file a *Certificate of Formation* with the Secretary of State's Office and pay a filing fee.

- **Tip: *The Office of the Governor's Small Business Handbook* is an essential read if you want to operate a business in Texas. It's chock full of great information and resources to explore and can be found online at: WWW.GOV.TEXAS.GOV/BUSINESS.**

Tip: *The Texas Business Incubators Directory* offers a wealth of information about incubators, accelerators, co-working spaces, and other resources around Texas for start-ups and small businesses. It can also be found online at: WWW.GOV.TEXAS.GOV/BUSINESS.

Basic Business Requirements in Texas

What follows is a basic rundown on your must-dos as a Texas business.

- Obtain a free state sales tax permit, collect the tax from customers, and pay your tax revenues to the Texas Comptroller's Office. You need a sales tax permit if your business will sell tangible personal property in Texas, lease or rent tangible personal property, or sell taxable services in the state. Tangible personal property is property that can be moved, like furniture, vehicles, office equipment, and cell phones. Jewelry, sporting equipment, books, art, apparel and toys are also tangible personal property.

The Texas sales tax is 6.25%. However, local jurisdictions, such as cities, counties, special purpose districts and transit authorities, can impose their own sales tax of up to 2.0% for a combined total sales tax of as much as 8.25%.

For detailed information about this tax and to obtain a sales tax permit from the Texas Comptroller, go to: <https://comptroller.texas.gov/taxes/sales> or call 512-463-4600 or 800-252-5555.

Get all required permits, licenses and/or certifications. Depending on the nature of your business, it may have to obtain one or more of these from the State; your local and/or county governments may have their own requirements as well.

To find out what permits, licenses and/or certifications you may need to acquire from the State, review the *Texas Business Licenses & Permits Guide*. This comprehensive guide also provides information about the particular state department or commission to contact to get what you need, alerts you to the state regulations you may have to comply with, and provides links to the specific offices you can contact for detailed information.

Tip: The State of Texas operates a Business Permit Office, which can help you understand your responsibilities as a business owner and resolve problems related to permits, licenses and certifications. For more information, go to: WWW.GOV.TEXAS.GOV/BUSINESS.

Tip: You do not have to obtain a general business license in Texas.

- Pay a franchise tax, if necessary. Every business operating in the state—except for sole proprietorships, general partnerships, and certain limited partnerships—may be subject to the Texas franchise tax. However, many businesses that are subject to the tax end up not having to pay it because of the state’s high tax due threshold. Franchise tax rates, thresholds and deduction limits vary from year to year. This tax is administered by the Texas Comptroller’s Office.
- Pay an unemployment tax if you have employees. This tax, which is administered by the Texas Workforce Commission, supports the state’s Unemployment Compensation Fund, which pays unemployment benefits

to eligible workers who become unemployed through no fault of their own.

Before you can begin paying the tax, however, your business must set up a tax account with the Texas Workforce Commission (TWC), which must happen within days of your business becoming eligible to pay unemployment insurance for the first time. After that, your business must report to the Commission the wages it paid to its employees in each calendar quarter and pay the unemployment taxes that it owes.

Tip: There is no state withholding tax in Texas.

You can create your tax account online if your business meets at least one of several different criteria. Otherwise, you must register by mail using *Form C-1, Status Report*, which is available at: WWW.TWC.TEXAS.GOV.

For comprehensive information about registering a new account with the Texas Workforce Commission, filing your reports, paying what you owe and more, go to: WWW.TWC.TEXAS.GOV/BUSINESSES.

- Pay an annual tax on your business's tangible property, also referred to as its personal property. This is a tax on the market or assessed value of the tangible assets your business owns that are used in the production of its income. Examples of such assets include your business's equipment, furniture, machinery, computers, supplies, motor vehicles, and inventories. The central tax appraisal district for each county in Texas administers this tax.

Tip: There is no tax on your “personal” tangible property in Texas—only businesses pay it.

To determine how much tax your business will owe, you must report to your county tax appraisal district all of

the tangible assets your business owned as of January 1 in each calendar year.

After your county appraisal district receives your report, it will determine the taxable value of your business's personal property. You can file a protest if you believe the value is too high.

Tip: Your business may be eligible for one or more special tax exemptions that could lower its tax obligation considerably.

- Pay any property taxes your business may owe. Like owners of residential land and property in Texas, businesses that own land and buildings in the state are taxed on those assets, and there are exemptions that can lower their property tax obligations. If you believe that the taxable value of your real property is too high, you can file a protest with your county's appraisal district, which administers and collects property taxes.

Exhibit A. State-Sponsored Business Programs and Incentives in Texas

The State of Texas offers businesses in the state a variety of incentives to support their success. The ones listed here are the most popular.

- **Texas Enterprise Fund.** This is the largest “deal-closing” fund of its kind in the nation. It provides cash grants to businesses planning projects that promise to create a significant number of new jobs and capital investment in the state.
- **Texas Enterprise Zone Program.** This economic development tool is designed to encourage job creation and private investment in economically distressed areas. Local communities participating in this program nominate new or expanding businesses to become *enterprise projects*,

and approved projects can apply for state sales and use tax refunds.

- **Product Development and Small Business Incubator Fund.** This revolving loan program helps finance the development and production of new or improved products and fosters new or existing businesses in the state. It specifically targets businesses that may be unable to secure the financing they need in traditional capital markets.
- **Skills Development Fund.** This is a grant program that helps companies create customized training programs for their workers in partnership with local community colleges and technical schools.

Be sure to check out local incentives and tax abatements too. To find out about them, contact the local government's economic development office or the chamber of commerce in the area where you plan to locate your business.

Exhibit B, Iconic Texas Entrepreneurs

Many entrepreneurs, some with little more than smarts, determination and often larger-than-life personalities, have made fortunes here in Texas. Here are just a few:

- **Mary Kay Ash** (1918–2001). After experiencing discrimination in the workplace because of her gender, Ash founded Mary Kay with the goal of empowering other women through entrepreneurship. Her firm was famous for the pink Cadillacs it gave to especially successful Independent Beauty Consultants. Today, those consultants sell Mary Kay products in nearly 40 countries, and Mary Kay is a multi-billion dollar enterprise.
- **Howard Edward Butt, Sr.** (1895–1991). Former CEO of the H-E-B grocery store chain, Howard got started in the grocery store business after he took over C.C. Butt Grocery Store, the business his mother Florence began in

1905 with \$60. According to Forbes Magazine, H-E-B has more than 400 stores in Texas and Mexico and generates more than \$31 billion in sales annually.

- **Mark Cuban** (born 1958). Cuban is the owner of the NBA's Dallas Mavericks basketball team as well as an entrepreneur, TV personality and investor. Forbes estimates his net worth to be \$4.3 billion and Cuban ranked #177 on the 2020 Forbes 400 list.
- **Michael Dell** (born 1965). Dell is the founder, chairman and CEO of Dell Technologies, one of the world's largest IT companies. He began Dell at age 19 with \$1,000 in startup capital. With a net worth of \$41.8 billion as of February 2021, Forbes ranked him the 27th richest person in the world.
- **Bette Nesmith Graham** (1924–1980). As an executive assistant for a bank in Dallas, Graham wanted a better way to correct typing errors. After some trial and error efforts in her kitchen, she began bottling and selling her correcting fluid. Initially, Graham's company was called Mistake Out, but she later changed it to Liquid Paper. Graham sold Liquid Paper to Gillette for \$47.5 million. She was the mother of The Monkees' Michael Nesmith.
- **H.L. Hunt** (1889–1974). Hunt was a legendary Texas oil tycoon who became famous not just for his great wealth, but for his outspoken conservative political views too. He founded the Hunt Oil Company in 1936, which became the largest independent oil producer in the United States, and over the years he acquired the rights to much of the East Texas oil fields, the largest and biggest producing oil reservoir in the contiguous United States. Hunt also invested in the production of canned goods, health products, and cosmetics. At the time of his death, his fortune was estimated to be worth between two and three billion dollars.
- **Herb Kelleher** (1931–2019). Kelleher co-founded Southwest Airlines on a cocktail napkin. He was CEO

and president of the company and later chairman emeritus until his death. He died a billionaire. Kelleher built Southwest Airlines on a disruptive business model, which included a unique, fun-oriented, people-focused work culture. The culture was a reflection of his outrageous personality. Kelleher was repeatedly recognized as the best CEO in the airline industry and while he was alive, *Fortune Magazine* viewed him as perhaps the best CEO in the country.

- **John Mackey** (born 1953). The CEO of Whole Foods Market, Mackey began the chain's first store in 1981 in Austin with three other people, who like him, also owned small, natural foods stores. They envisioned a supermarket that sold healthy food. Currently, the company has more than 350 retail and non-retail locations in the US, Canada and the UK. In 2017, Amazon purchased Whole Foods in a deal valued at more than \$13 billion.
- **Abraham Lincoln Neiman** (1875–1970), his wife **Carrie Marcus Neiman** (1883–1953), and **Herbert Marcus** (1878–1950). Together, this threesome co-founded Neiman Marcus. The first store in their retail chain was in Dallas. Neiman Marcus became the personification of luxurious shopping and its annual "Christmas Book" catalog was famous for its expensive and over-the-top gifts, like his and her life-size robots, a personalized jetliner, and a zeppelin.
- **Ross Perot** (1930–2019). Perot founded Electronic Data Systems (EDS) in 1962 and sold it to General Motors for \$2.5 billion worth of stock and a seat on GM's board of directors. GM later bought back his seat for \$700 million. Politically outspoken and flamboyant, Perot ran for U.S. president twice, first as an independent and then as the candidate of the Reform Party, which he established.
- **T. Boone Pickens** (1928–2019). Founder of Mesa Petroleum, one of the nation's premiere independent

natural gas and oil companies, Pickens later began BP Capital, a highly successful hedge fund focused on energy investments. Dynamic and outspoken, Pickens was also a well-known corporate raider during the 1980s.

- **Angus G. Wynne** (1914–1979). Wynne founded Six Flags Over Texas in 1961 as a unique family-friendly theme park – a very large park with different sections, each of which focused on a specific theme, such as cowboy culture, French and Spanish cultures, and pirates. Six Flags also featured innovative rides. Today, with 26 theme and water parks in North America, it's the largest regional theme park company in the world.

GLOSSARY

Appointment For Disposition of Remains. Texans can use this document to spell out who they want to be in charge of their body after they die, and to indicate whether they want to be buried or cremated.

Asset protection planning. A process that involves taking proactive, legal and ethical actions to protect someone's personal and business assets from the consequences of a possible lawsuit resulting from a court judgment against them.

Assumed Name Certificate. A form stating the name under which a business or a professional service will be conducted. The form is filed with either the Texas Secretary of State's office or the appropriate Texas county.

Common law marriage. A legal form of marriage that occurs without a formal ceremony and that gives spouses all of the same rights and obligations as individuals who are married in a religious ceremony or by a judge. The only way to terminate a common law marriage is through a divorce.

Community property. Property that is owned by spouses in Texas. In general, any assets acquired by either or both spouses during their marriage while living in a community property state, as well as any income one or both of them earns, is considered community property.

Corporation. A form of business that is legally separate from its owners and protects them from being personally liable for the business's financial obligations therefore.

Declaration of Informal Marriage. A document that couples who are in a Texas common law marriage can file with their county clerk's office to help prove that they are legally married.

Directive to Physicians and Family or Surrogate. Often called a “Living Will,” this document is used by Texans to specify the kinds of medical care and treatment they do and do not want should they become incapacitated by a terminal illness or an accident from which they are not expected to recover. The document is referred to as an advance directive in some states.

Domestic Asset Protection Trust (DAPT). A kind of asset protection trust. Because of its cost, it is most often used by individuals of substantial wealth.

Domicile. An individual’s permanent legal residence.

Donate Life Texas Registry. The only official organ, eye and tissue donor registry in Texas.

Durable Power of Attorney. A legal document used by an individual to designate who they want to manage their financial and legal affairs if they become incapacitated.

Estate planning. A process that an individual initiates while they are alive and of sound mind that involves taking legal steps to ensure that after their death, their assets will go to the people and organizations they care about. Estate planning also involves ensuring that someone they trust will make health care and financial decisions on their behalf should they become incapacitated. Another aspect of estate planning involves parents of minor children designating legal and financial guardians for their children in the event that both of them die or become incapacitated while their children are still minors, which in Texas means younger than age 18. Tax issues are also a part of estate planning.

Exempt Assets. Assets that by law a judgment creditor cannot take from a property owner. The exemptions provided under Texas law are among the most generous in the nation.

Family Limited Partnership (FLP). A form of business ownership which allows Texas spouses to benefit from their family assets while they are alive and can ensure that other generations of their family can benefit from them, as well. It provides asset protection and, in certain settings, can reduce taxes.

Franchise tax. A tax that many Texas businesses may be subject to. Also referred to as a *privilege tax*, the amount of franchise taxes a business must pay is based on its revenue. The tax is administered by the Texas Comptroller's Office.

General Partnership. A form of business that is created by two or more individuals, each of whom is referred to as a *partner*.

HIPAA Authorization. A document that allows patients to specify with whom their doctors and insurance companies can share their medical information.

Holographic will. A will that is handwritten. Handwritten wills are legally-recognized in Texas, but typically cause expensive problems after death.

Homestead. The primary, permanent Texas residence owned by a resident of the state.

Homestead exemption. One of the most significant property tax exemptions in Texas, the exemption provides homestead owners with an automatic discount on the amount of property taxes they owe each year.

Joint managing conservatorship. A child custody arrangement that gives both parents in a divorce shared parental rights and responsibilities for their minor children.

Joint tenants with right of survivorship. When an asset is titled this way and one of the asset owners dies, the other owner(s) is

entitled to an equal portion of the deceased's share of the asset. In Texas, however, the right of survivorship is not automatically recognized.

Lady Bird deed. Also referred to as an enhanced life estate deed, this kind of deed allows a property owner to transfer property after their death to one or more individuals without the property having to go through probate. A potentially important benefit of a Lady Bird deed is that it prevents the state of Texas from recovering funds from the deceased's real estate if they received Medicaid benefits while they were alive.

Limited Liability Company (LLC). A form of ownership that limits the personal liability of a business's owners for its financial obligations.

Living trust. A legal document that creates a revocable trust to hold someone's assets while they are alive. It can be created by a single individual or by a couple. During their lifetime, the individual(s) who creates the trust can benefit from and control the assets that are in the trust. When the trust creators die, the trust assets do not go through probate. *Inter Vivos* trust is another term for a living trust.

Medical Power of Attorney. A legal document prepared by an adult that gives another adult the right to direct their health care in accordance with their wishes if they are unable to make their own decisions because of an illness or injury.

Offshore trust. A kind of asset protection trust that is established with a financial entity located in a foreign country.

Payable-on-Death (POD) account. An account that entitles its beneficiary/ies to automatically receive the funds in the account when the account owner dies.

Post-nuptial agreement. A legal agreement that a married couple can use to address the same kinds of issues that a pre-nuptial agreement can cover.

Pre-nuptial agreement. A legal agreement negotiated between two individuals prior to their marriage that is typically used to define the property and financial rights of each spouse should their marriage end in death or divorce.

Probate. A court-supervised legal process which a Texas estate must go through after someone dies in order to determine the validity of the deceased's will, pay any debts the deceased may have owed at the time of their death, and distribute the deceased's assets according to the terms of the will.

Professional Association (PA). A form of business that can be created by a licensed doctor of medicine, doctor of osteopathy, doctor of podiatry, dentist, chiropractor, optometrist, therapeutic optometrist, veterinarian, or mental health professional.

Professional Corporation (PC). A kind of corporation that can be created to deliver a professional service requiring a state of Texas license and that a typical corporation is legally prohibited from providing.

Professional Limited Liability Company (PLLC). A special kind of LLC that offers tax benefits and limited liability protection to licensed professionals, including lawyers, CPAs, accountants, architects, doctors, dentists, mental health professionals, and veterinarians.

Property tax. A tax that owners of land and buildings in Texas must pay annually. The amount of the tax is based on the appraised taxable value of a property as determined by the central tax appraisal district in the county where the property is located.

Separate property. Property that is either owned before marriage, received by gift or inheritance, acquired in a non-community property state, or acquired in a personal injury lawsuit recovery.

Sole proprietorship. The simplest kind of business structure. Many sole proprietorships are operated under the name of the owner.

Stowers Doctrine. A Texas doctrine that protects the owner of a liability insurance policy if their insurance company refuses to settle a lawsuit.

Tenants-in-Common. The default form of joint ownership in Texas. When individuals own an asset together as Tenants-in-Common, each of them has an undivided interest in the asset and can do whatever they want with their share. When one owner dies, the deceased's share of the asset goes to someone else according to the terms of the deceased's will. That "someone else" may or may not be the other joint tenant.

Texas Comptroller's Office. The office that serves as the chief tax collector, accountant, revenue estimator, and treasurer for the State of Texas.

Texas Department of Public Safety (DPS). The Texas government department responsible for statewide law enforcement and vehicle regulation in the state.

Texas Residency affidavit. A document that can be used to help prove that an individual is a legal resident of Texas.

Texas Secretary of State. The office that administers the Texas Election Code and is a repository for official corporations and commercial records that must be filed with the office, among other things.

Texas Unemployment Compensation Fund. A state fund that pays unemployment benefits to eligible Texas workers.

Texas Workforce Commission. The state agency charged with overseeing and providing workforce development services to employers and job seekers in Texas. Among other things, it administers the state's unemployment benefits program, which is funded by employer taxes.

Transfer on Death (TOD) deed. A kind of deed that allows someone to transfer real property (land and buildings) to one or more individuals, organizations, charities, trusts, etc. after death without including the property in a will or living trust.

Unemployment tax. A tax that Texas employers must pay to the state of Texas according to the terms of the Texas Unemployment Compensation Act. The tax supports the state's Unemployment Compensation Fund.

Will. A legal document that someone can use to spell out who should receive their assets when they die. Parents of minor children can also designate a personal guardian and a property guardian for them in their will.