

INSURANCE IMPLICATIONS OF TRANSFERRING REAL ESTATE TO A TRUST, PARTNERSHIP, OR LLC

For those of you who have transferred real property to trusts, partnerships, or limited liability companies, a recent California appellate court decision emphasized the importance of updating your insurance policies to reflect the changes in ownership or risk not being covered by your existing insurance policies.

In *Kee Kwok v. Transnation Title Insurance Company (2009)*, the California Court of Appeals held that the insurance policy covering an LLC did not cover a husband and wife when they transferred title to the property from the name of a LLC to themselves as trustees of a family trust. The court reasoned that the insured was the LLC and the policy did not cover the Kwoks because title was transferred from the LLC to the Kwoks as trustees of their family trust, a separate entity, and therefore they were not covered under their existing policy.

This same problem exists with regard to other forms of insurance such as general liability coverage. If you have general liability coverage in your own name and then transfer title to yourself as trustees of a trust, depending on the language of your policy, you may not be entitled to coverage in your new capacity as trustees under your existing policy.

The solution? If you have transferred property to a trust, partnership, or limited liability company, or vice versa, carefully review your policies to determine whether you are entitled to coverage under your existing policies and, if not, take appropriate steps to insure that you are covered by (1) obtaining endorsements adding yourself or the entity to the policy as insureds, or (2) obtaining new policies.

Some newer policies may cover transfers to trusts but not to other entities. Therefore, when transferring property, it is imperative that you review your existing policies to determine if the transferred person or entity is covered. If not, the insurer must be contacted to obtain an endorsement covering the new owner or issue a new policy. In California, most of the common transfers to and from family trusts and other entities can be covered under CLTA Endorsement 107.9, which is not expensive but you must go to your title insurer and ask for it.

Therefore, when transferring real property to a trust, partnership, or limited liability company, you must be careful to change your insurance policies to reflect the changes in ownership, or risk losing your insurance coverage.

For more information about the information discussed in this Client Alert, or any other income or estate tax planning or asset protection planning assistance, please contact Jeffrey M. Verdon Law Group, LLP at jeff@jmvlaw.com or 1-800-521-0464.

© 2009 Jeffrey M. Verdon Law Group, LLP. **About the Author:** Jeffrey M. Verdon, Esq. is a Managing Partner of Jeffrey M. Verdon Law Group, LLP, a boutique trusts and estates law firm located in Irvine, CA. The firm, which has specialized in asset and lifestyle protection planning for over 25 years, is rated "AV" by Martindale Hubbell.

NOTE: This newsletter is a publication of Jeffrey M. Verdon Law Group, LLP and is intended to provide information on recent legal developments. This report does not create an attorney-client relationship nor should it be construed as legal advice or an opinion on specific situations. If you do not wish to receive future law updates and alerts, please send a reply email to newsletter@jmvlaw.com asking to be removed from the mailing list.

Circular 230 Disclosure: To ensure compliance with Treasury Department rules governing tax practice, we inform you that any advice contained herein (including any attachments) (1) was not written and is not intended to be used, and cannot be used, for the purpose of avoiding any federal tax penalty that may be imposed on the taxpayer; and (2) may not be used in connection with promoting, marketing or recommending to another person any transaction or matter addressed herein.

CONFIDENTIALITY NOTICE: This e-mail transmission, and any documents, files or previous e-mail messages attached to it may contain confidential information that is legally privileged. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in or attached to this transmission is STRICTLY PROHIBITED. If you have received this transmission in error, please immediately notify the sender. Please destroy the original transmission and its attachments without reading or saving in any manner. Thank you, Jeffrey M. Verdon Law Group, LLP.