

ESTATE UPDATE

THE ESTATE PLANNING & LEGAL NEWSLETTER OF THE LAW OFFICE OF SJOSTROM, LOFTHUS & ROUSAR, PLLP

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ESTATE TAXES ARE OWED AFTER \$1 MILLION, EVEN THOUGH YOU'VE HEARD \$5 MILLION

As the so called "Bush tax cuts" were scheduled to expire on December 31, 2010, Congress voted to extend the cuts in most cases.

However, for Federal Estate taxes, the Congress did not simply extend the current law, they modified it. For the years 2011 and 2012, the Federal Estate tax exemption was set at \$5 million. As a result, no Federal Estate tax would be payable by an estate unless it exceeded \$5 million in value. In a new twist, if the first spouse did not use all of his or her \$5 million exemption, it could be passed on to the surviving spouse. As a result, it is possible that an combined estate of \$10 million could potentially be passed to heirs free of any Federal Estate tax.

Unfortunately, the changes to Federal Estate tax law apply only to persons dying through 2012. If Congress fails to act again by December 31, 2012, the Federal Estate tax exemption will fall back to \$1 million (a tax increase on the estates of many of our clients).

Despite changes to Federal Estate tax law, Minnesota's tax laws did not change in 2010. The Minnesota Estate tax exemption remains at only \$1 million. Additionally, surviving spouse's in Minnesota do not have the same ability to use a deceased spouse's Estate Tax exemption as Federal law permits.

While Minnesota Estate tax rates are much lower than Federal, the Estate tax owed can be significant. Therefore, it takes proper planning, for Minnesotans to pass up to \$2 million to their heirs without paying Minnesota Estate tax.

With the Minnesota Estate tax exemption less than the Federal Estate tax exemption and with Minnesota's more restrictive spousal exemption rules, many of our clients are still at risk of paying Minnesota Estate Tax at their deaths. Therefore, if your total Estate (real estate, investments, retirement assets, life insurance) has a value near or above \$1 million, we encourage regular review of your Estate Plan and your current planning documents.

Transfer on Death Deed: Is it always the answer?

Since the Minnesota legislature created the Transfer On Death Deed (TODD) law three years ago, the TODD has become very popular and, in many cases, a very simple way to transfer real estate after death and without probate.

The TODD is a deed which transfers the owner's (transferor) interest in real estate to another person (transferee). The TODD must be recorded with the county before the transferor's death, but creates no interest in the transferee until the transferor dies. Prior to that time, the transferor can sell or mortgage the property and even revoke the TODD without the involvement of the transferee.

The TODD is often very useful. However, it is not the answer for every client. For example: How will it work if all of your children become co-owners of the family home, cabin or farm? Will they (and their spouses) be able to come together for the management, sale or other disposition of the property? We encourage a careful review before a TODD is used.

ESTATE PLANNING IS:

TAKING THE NECESSARY TIME TO PROTECT WHAT YOU HAVE SPENT YOUR ENTIRE LIFETIME CREATING.

If you have a **WILL** and it has been more than three years since you have reviewed it, please contact our office for an **ESTATE REVIEW**, the first ½ hour is **FREE**.

If you have a **TRUST** and it has been more than one year since you have reviewed it, please contact our office for an **ESTATE REVIEW**, the first ½ hour is **FREE**.



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RETURN SERVICE REQUESTED

LEGAL PLANNING TIPS: SMALL IDEAS WITH A BIG IMPACT

ESTATE PLANNING TIP: PASSWORDS - A client recently contact our office with a suggestion for this portion of our newsletter. Most of us have passwords for secure access to various accounts - e-mail, utilities, banking, investments, subscriptions, etc. Some people use the same password in every situation while others have different passwords for different uses. To make things more confusing, some institutions require you to change your password periodically for maximum security for your information. In this digital age, as password use becomes more common and as the complexity of passwords increases, it can be difficult to remember all of our passwords. Therefore, our client suggested that you make a list of your passwords for yourself & your heirs. *Thanks, Patti.*

BUSINESS PLANNING TIP: CORPORATE DOCUMENTS - No well run company leaves its bank balance, bills and invoices in disarray. However, many companies leave their corporate documents in that state. Corporate records describe every major decision and election of the Board and company owners. Although these records may seem a rather unimportant part of the daily activity of a business, they are the basis for potential liability for officers, directors and owners of any business. Take the time to verify that your corporate records are accurate & up to date.

PERSONAL PLANNING TIP: SCAMS - Although, we have discussed scams in a prior edition of the newsletter, we continue to hear of every increasing types of scams, many of which focus specifically on seniors. Recently, a friend received a phone call from a person claiming to be her grandson. He stated that he had been in an accident in Canada and needed money now. When his grandmother went to the bank to transfer the funds, the banker questioned the transfer. He urged her to call her grandson who was at home, who had not been in an accident and who had not been to Canada. Other schemes claim that the person has won a car and has only to send the sales tax or, in another case, the shipping cost, in order to receive the car. No such car exists. Another scam claims to offer a great business deal for the elderly person by simply sending money. Some scammers claim to be from the IRS or Social Security or other government agencies and ask for private information. Some lawyers have been the targets of these scams, which claim some great professional opportunity, and, unfortunately, some have "bit" on the story (and were "bitten" in return). Please beware of any solicitations, offers or requests for funds or information.

If you would like our newsletter e-mailed to you, please send an e-mail to erousar@visi.com with the word "newsletter" typed in the subject line and your name in the body of the e-mail.

DISCLAIMER: The contents of this newsletter are presented as general information and are not intended as legal advice to apply to any person or particular situation. Additionally, be mindful that the law is constantly changing and you should always inquire about the present state of the law in reference to all matters. If you have any questions concerning any matters covered in this newsletter, you should consult with an attorney for legal advice based on the individual circumstances of your situation.