

ESTATE UPDATE

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

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IS MY A/B TRUST AN ESTATE TAX TIME BOMB?

If you have A/B Trust or Credit Shelter Trust provisions inside your Will or Revocable Trust, you should stop reading this newsletter, telephone our office and make an appointment to review your Estate Planning documents, if you have not done so.

Changes to the federal estate tax laws in 2001 caused the federal unified credit to dramatically increase. That increase changes the quantity of assets each person can pass to heirs at death free of *federal* Estate Taxes.

Currently, through the end of the year 2005, each person can pass up to \$1,500,000.00 to their heirs without paying any *federal* estate tax. In 2006, the federal unified credit will be \$2,000,000.00.

However, the State of Minnesota did not follow the federal estate tax law changes. As a result, through the end of 2005, each person can only pass up to \$950,000.00 to their heirs without paying any *Minnesota* estate tax. In 2006, the Minnesota unified credit will be \$1,000,000.00.

As a result of this difference in tax limits, the traditional language of an

A/B Trust or the Credit Shelter Trust within a Will or Revocable Trust may cause your family to unnecessarily pay *Minnesota* estate tax on the death of the first spouse to die.

For Estate Planning documents with the old A/B or Credit Shelter language, the assets of the first spouse to die will be sheltered up to the maximum amount of assets you can protect under *federal* estate tax law. This amount would be \$1,500,000.00.

Since the maximum amount a person can protect under *Minnesota* estate tax law is only \$950,000.00, Minnesota would impose an estate tax on the estate of the first spouse to die because too many assets were sheltered.

In order to correct this potential tax liability, your documents should be amended appropriately and your assets should be reviewed in order to complete the analysis of your risk of paying unnecessary Estate Taxes.

Don't let your family be surprised by an unintended tax when you thought your Estate Plan was complete, please contact our office to schedule an *Estate Review* consultation.

State limits Insurers from pressuring on car repairs

A new law which became effective August 1, 2005 gives vehicle owners protection from being pressured or coerced by their auto insurance company into having their vehicle repaired at a particular "insurer approved" repair shop after an accident.

This new law, similar to the law previously enacted regarding auto glass replacement, requires insurance companies to make the following statement to the customer:

"Minnesota law gives you the right to choose a repair shop to fix your vehicle. Your policy will cover the reasonable costs of repairing your vehicle to its pre-accident condition no matter where you have repairs made. Have you selected a repair shop or would you like a referral?"

If a customer indicates that they have selected a repair shop, the insurance company must cease all efforts to influence the customer choice's of vehicle repair shop.

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*.



SJOSTROM, LOFTHUS & ROUSAR, PLLP
ATTORNEYS & COUNSELORS AT LAW
801 Twelve Oaks Center Drive - Suite 818
Wayzata, Minnesota 55391-4635

Donald R. Sjostrom

Direct dial 952-475-3611
E-mail dsjostrom@visi.com

Eric R. Rousar

Direct dial 952-475-1001
E-mail erousar@visi.com

Scott W. Lofthus (1956 - 2001) Our colleague & friend

RETURN SERVICE REQUESTED

LEGAL PLANNING TIPS: SMALL IDEAS WITH A BIG IMPACT

ESTATE PLANNING TIP: OLD FINANCIAL POWERS OF ATTORNEY - In the past few years, a number of our clients have had difficult experiences trying to use a financial power of attorney for a disabled person when the power of attorney was more than 5 - 10 years old. Despite the fact the documents are legally valid, some financial institutions are placing limitations or roadblocks in front of the person who is named in the power of attorney in order to protect the institution from lawsuits. As a result of this friction, we are encouraging all of our clients to periodically “freshen up” their financial powers of attorney by re-signing their power of attorney documents if they are 5 - 10 years old.

BUSINESS PLANNING TIP: ANNUAL BOARD MEETINGS - As part of good business governance, we recommend that our business clients hold annual board meetings and annual meetings of the owners of the business. Despite the presumed formality of holding such meetings and recording voting procedures, in cases of unanimous agreement, such meetings can easily be accomplished by the creation of a written action which is signed by each member of the Board or by each owner of the business. Proper maintenance of the organizational formalities will further maintain that veil of liability protection for the business owners. Failure to observe the formalities may lead to a weakened or broken liability shield or increased difficulties during an IRS audit. Our office can assist you in preparing the necessary documents which will memorialize your annual meetings. The written actions of those annual meetings should be placed in your Record Book for safekeeping.

PERSONAL PLANNING TIP: SELLING YOUR HOME - A number of our clients sell or purchase a home during any given year. Some clients hire a real estate agent to assist them in the sales process, while others wish to sell or purchase a home without hiring a real estate agent. Our office has assisted many clients in navigating the legal issues of the real estate sales process from the drafting of the Purchase Agreement through the actual closing of the sale. If you choose to sell or purchase a home or any piece of real estate with or without a real estate agent, we urge our clients to seek the appropriate legal advice which can help you protect yourself when you are buying or selling one of the most important assets you’ll ever own.

We’re celebrating with DON SJOSTROM on his 40th anniversary of being a licensed attorney. Don’s dedication to the legal profession and his enjoyment of serving our clients keeps him hard at work. If you ask Don when he’ll retire, he’ll tell you that he doesn’t have time to retire.

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.