

ESTATE UPDATE

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

VOLUME 4, NUMBER 2

FALL 2008

THE NEW TRANSFER ON DEATH DEED

A **new tool** in the Estate Planning Tool box?

The Minnesota legislature created a new Estate Planning tool called the Transfer on Death Deed. The new law allows you to transfer your real estate at the time of your death without the requirement of a probate proceeding. This tool may be useful as part of the Estate Plans of a number of our clients.

With a Transfer on Death Deed, the owner of real estate creates and records a Deed that transfers real estate directly to named beneficiaries when the owner dies. Prior to the death of the owner the beneficiaries have no ownership interest in the real estate. In other words, the owner retains full ownership rights in the real estate, including the right to revoke the deed or to sell the property to someone else until his or her death. Because the beneficiary has no ownership interest in the property until the death of the owner, the property is protected against potential claims by the beneficiary's creditors, divorce proceedings, and other risks of joint ownership of real estate which may arise if the

owner adds a beneficiary as a joint tenant or transfers it and retains a life estate.

In order to be effective, the Transfer on Death Deed must be recorded prior to the death of the owner. Upon the owner's death, the real estate is automatically transferred without probate court involvement. However, a probate proceeding may be necessary in order to transfer other assets of the estate.

Despite its benefits, the Transfer on Death Deed is not an appropriate tool for every estate and should be used as part of an overall Estate Plan. It will not protect your homestead or investment real estate if the owner or the owner's spouse applies for Medical Assistance. There are additional benefits and risks of the Transfer on Death Deed which need to be considered.

If you have questions about whether this new Estate Planning tool - the **Transfer on Death Deed** - would be a useful part of your Estate Plan, please give us a call.

OUTSIDE OF THE LAW:

New addition to law office

Our lives are filled with work, but we also take time to enjoy the rest and best of life. Our OUTSIDE OF THE LAW pieces are designed to give a small view into our outside interests.

In late May, Eric and his wife Sarah celebrated the graduation of their daughter Anne from high school. In mid-July, they celebrated the birth of their second child, a son who they named John.

We celebrate with Eric and Sarah for the addition to their family and the addition to our office. As of the printing of this edition of the newsletter, we have not received word whether either of Eric's children have plans to follow in their father's vocational footsteps.



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
website: www.slrlawyers.com

Donald R. Sjostrom 952-475-3611
E-mail dsjostrom@visi.com

Eric R. Rousar 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: ESTATE PLANNING FOR YOUNG ADULTS - We have watched many of our clients raise their young children into young adults. The Estate Plans of the parents are carefully drafted to provide for and to protect their children as they grow. However, once children reach the age of majority (18), parents legal rights to assist their children in times of crisis becomes limited. For example, *parents do not have a legal right to access medical information about their child who is injured while attending college*. As such, we advise our clients to encourage their adult children to create their own Estate Planning documents such as a Health Care Directive and Financial Power of Attorney. With these documents in place, parents will be legally empowered to help their children.

BUSINESS PLANNING TIP: REGISTERED OFFICE - When businesses make their initial filings with the Minnesota Secretary of State's office as a corporation or limited liability company, they must provide the State with a "registered office." The registered office is the physical address at which the business can be contacted by the State of Minnesota or served with legal documents. Over the life cycle of many businesses, that initial registered office becomes outdated for a variety of reasons (*e.g., it was the old home address of a company founder, it was the first business address of the company, etc.*). Minnesota law requires businesses to maintain a current registered office with the Minnesota Secretary of State. Failure to maintain a current registered office may ultimately lead to an administrative dissolution of your business by the Secretary of State. Our office can assist you in verifying that you are fulfilling that requirement.

PERSONAL PLANNING TIP: FAMILY CONFERENCE - As many of our clients have gotten older, we have been fortunate to meet a number of their children. Some of those meetings are the result of the request of the parents for children to be more aware of and more actively involved in their affairs. Other meetings have occurred after a crisis such as a death or disability of one or both parents. As children take their first steps into the lives of their parents, they may dramatically add to the responsibilities of their own lives. In order to assist our clients and their children in this process, we offer a Family Conference which is designed to encourage an open discussion during the process.

As we enter this holiday season, we stop to say **"THANK YOU"** to each of our clients and to those who have recommended our services to your families, colleagues and friends. We are truly grateful for the confidence you have shown in our law firm and we strive to live up to that confidence.

Our law firm website is now "live" at www.slrlawyers.com.

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.