ESTATE UPDATE

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

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WHO GETS THE DINING ROOM TABLE?

Have you created a written list of personal property?

Minnesota law allows you to create a written statement or list of items of tangible personal property to be gifted at your death even though those items are not specifically transferred under the terms of your Will.

Although many valuable assets can be gifted this way, the written list law does not allow you to gift money, coin collections, titled assets (real estate, investments, accounts, etc.) and property used in trade or business. Some of these gifts may have little economic value, but great sentimental value.

There are a few requirements if a written list is to be a valid way to transfer tangible personal property at your death. First, the list must be referred to in your will (All of our client's Wills contain such a provision). Second, the list must either be in your handwriting or be signed by you. Third, the items on the list and the recipients must be described with a "reasonable certainty."

The written list can be created at the time you create your Will or any time prior to your death. Additionally, you can change the list anytime without the need for changing your Will. You can even have more than one list in existence at the time of your death.

Some of our clients have created such lists while some have decided to leave the division of personal property up to their children.

For those clients desiring to create such a written list for gifting tangible personal property, we recommend careful consideration of each gift since such gifts can often contain intended or unintended "messages" to children.

Clients hoping that their children will work together and that the division of personal property will "just take care of itself" may cause great discord among family members who value personal property in vastly different ways.

Because of the complex and complicated nature of family relationships, we encourage our clients to actively consider this part of the Estate Planning process.

SEVEN QUESTIONS:

Is your Estate Plan current?

1. Have you granted a durable power of attorney to a trusted person to handle financial matters for you if you are unable? If yes, is it current? Some institutions reject old powers.

2. Do you have an up-to-date Will and/or Revocable Trust? Are you sure those documents are current?

3. Have you recently checked the beneficiaries on all of your assets that name a death beneficiary?

4. Have you made an inventory of your important papers, your assets (with account numbers), contact persons and other information? Do family members know where to find it?

5. Have you made a Health Care Directive where you named someone to make health care decisions for you if you are unable, and gave some directions as to your wishes? Do your family members have a copy?

6. Have you given some thought to your wishes in case of your sudden death? It is very helpful for the family to have some pre-planning by you in case of a tragedy.

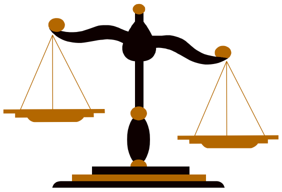
7. Have you made an appointment with your attorney and your financial advisor to review your estate plan recently? If not, consider doing it now before the activities of summer fill your schedule.

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

RETURN SERVICE REQUESTED

LEGAL PLANNING TIPS: SMALL IDEAS WITH A BIG IMPACT

ESTATE PLANNING TIP: **REQUIRED MINIMUM DISTRIBUTIONS IN 2009? -** Beginning the calendar year after you turn 70½, and each year thereafter, you are generally required to withdraw a part of your tax-deferred retirement accounts. This is known as a “required minimum distribution” (RMD). The RMD applies to most retirement accounts except Roth IRAs. You can always withdraw more than the RMD, if you wish; but failure to take the minimum withdrawal results in a **very large penalty**. However, good news from Washington comes under the “Worker, Retiree, and Employer Recovery Act of 2008." **For 2009 only**, RMDs will not be required for most retirement plans. So, if you don’t need the funds, you don’t have to make the 2009 withdrawal and thereby save income tax and perhaps the liquidation of investments in the plan when the market is down (a situation many of us experienced in 2008). Any questions should be referred to your financial advisor or the plan administrator.

BUSINESS PLANNING TIP: **INDEPENDENT CONTRACTORS & CONSTRUCTION TRADES** - Under a new Minnesota law, any individual person paid by a contractor to work in most construction trades will be legally an employee. As an employee, the worker will be subject to withholding and the contractor will have to provide workers’ compensation insurance and unemployment insurance for them. Contractors who fail to comply face serious penalties and thus will not engage individuals unless they intend them to be employees. This applies to individuals (sole proprietors) only, so many who wish to qualify as sub-contractors (and not as employees) are now doing business as a corporation or limited liability company (LLC). We can help you navigate this new law, give us a call.

PERSONAL PLANNING TIP: **CONVERTING AN IRA TO A ROTH IRA -** Most IRAs are pre-tax retirement accounts so when withdrawals are made they are all subject to income tax. A Roth IRA is an after tax retirement account; you pay tax on the amounts you invest, and there is no tax at the time of withdrawal (so earnings are never taxed). Most IRAs can be converted to Roth IRAs (with certain income limitations). When converted, you pay income tax on the amount converted, but then the account is tax free when withdrawals are made. With the disappointing balances in many IRA accounts, this may be a time to consider converting to a Roth. The income tax will be based on the current balance and when the market recovers, that growth will be without tax. Consult your financial advisor to determine whether this is a viable option for your retirement account(s).
