

STIER LAW OFFICE UPDATE

December 2010

Greetings:

Many of you are already aware that we have increased our capacity to serve you by adding another attorney. Jeremy C. Stier joined our office in January of 2009. Yes, he is related as son and brother. In addition to being able to provide estate and elder planning services, Jeremy, who spent nearly 10 years as an attorney in the business environment, adds great expertise in the business formation and business succession planning areas.

Stier Law Offices, P.A. now also has an official website. If you have the opportunity, visit us at www.stierlaw.com for information about our firm and estate planning. We periodically post additional information and will post newsletters as well.

With the large number of clients we have helped with estate planning, it is becoming a monumental task to complete mailings to all clients using the traditional US mail. If you would like to be put on a list for receiving announcements by email, please send us your email address.

You can contact us at office@stierlaw.com.

ESTATE TAX UPDATE

Finally, Congress has passed a law to prevent the Bush era tax cuts of 2001 to lapse. Not only does the new law prevent the exemption from reverting to only \$1 million per person, but it increases the exemption from \$3.5 million to \$5 million per person. The new law also introduces a new concept by providing for portability of the exemption between spouses. Any exemption unused at the first death can now be used at the second death. Also, the amount of gift tax exemption has been increased.

However, the new law is only temporary until January 1, 2013, unless Congress acts prior to then. Also, upon closer analysis, the portability option may not be advantageous as first thought. A more detailed analysis is attached to this newsletter for further information.

ELDER PLANNING (Long-Term Care Protection)

We have had a significant number of inquiries concerning the protection of assets from long-term care costs. Clients often ask if their Revocable Living Trust offers any protection from nursing home costs.

The answer is No. The reason is that the living trust is designed to avoid probate and save taxes along with providing protection for your heirs. In order for a trust to provide any protection from long-term care costs, it cannot be a revocable trust and the trustmaker cannot reserve rights to control, use or receive income from the trust. The revocable living trust does not meet this criteria.

However, there are certain specially designed trusts that can be used to shield assets from long-term care. These trusts incorporate special features to come within the medical assistance (medicaid) standards with the least possible impact on our clients.

There are some other opportunities to help fund the cost of long-term care which can be implemented for veterans and spouses of deceased veterans.

The explanation of these rather complex rules cannot be accomplished in this newsletter. If, however, you have an interest in learning more about this topic, call and arrange to meet with one of our attorneys.

SOME HOUSEKEEPING ITEMS

1. **Assets owned by Trust:**

Another Reminder - In order for your living trust to work as it is designed to avoid probate and save taxes, it is essential that the ownership (title) of your assets is the trust. It may be worthwhile to double check your asset ownership periodically to confirm that this is the case. Your real estate tax statement may not show the trust as the owner, but in these cases, a signed deed is being held to record after death. Look under the "Transfer Documents" tab to confirm you have such a deed if your real estate tax statement does not show title in your trust name. If you have acquired new real estate, please contact our office to make sure we can verify that it is also properly titled in your trust. And if you sell property, contact us so that our records can remain up to date as well.

2. **Scope of Representation:**

We have been privileged to represent our trust clients in the creation and implementation of their estate plans. Our representation for that project ended upon completion of the original estate plan.

We are happy to assist you from time to time when you need additional work within the scope of our practice expertise. Each time we provide additional services, that is a new engagement which likewise will terminate on completion of that project.

Similarly, after an initial free consultation following a disability or death, any additional work we are asked to complete will be considered a new engagement which terminates at the conclusion of that work. Sometimes the post mortem services are requested by your family and/or successor trustee. We will endeavor to work with them to the best of our abilities as we have with you. We will be as courteous and helpful as we can be. But we have had instances where the successors have been rude and continuously challenging our professional judgment about the plan that we recommended and you implemented without the benefit of the hours of time we spent explaining these concepts to you. We reserve the right to refuse to continue services to any successors who, in our judgment, are uncooperative and discourteous to the point that we are unable to perform effective legal services.

3. **Copies of Documents:**

We quite often receive requests from family members to provide them copies of their parents' plan documents. First, we never will provide information, let alone copies, of your planning documents to anyone without your prior written approval. If authorized by you, we can produce copies of estate planning documents; however, it requires staff time, paper, and copier cost. In your red portfolio you have all the original documents which can be made available to family for copying if you wish. If you desire and authorize our office to provide hard copies of your trust documents, the minimum charge will be \$35.00. Electronic copies are available by email only as unsigned, read-only documents.

4. **Password Protection:**

It has occurred to us that in today's electronic world, access to many important records or accounts may be password protected. In your trust portfolio under the "Location Lists" tab might be a place to record such passwords or set forth directions to another secure location where you list the passwords or PIN numbers etc. This may be of great assistance to your heirs at the time of disability or death.