

AUGUST 2018 NEWSLETTER

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**ALIMONY TAX CHANGES UNDER THE TAX CUTS & JOBS
ACT MAY AFFECT THE DYNAMICS OF 2018 YEAR END
DIVORCE PROCEEDINGS AND SETTLEMENTS**

FIRM ANNOUNCEMENTS

A. NEW ASSOCIATE

Pozzuolo Rodden, P.C. is pleased to announce that Christina Snyder has been hired as an associate attorney at the firm practicing primarily in the area of estate planning and estate administration. Ms. Snyder graduated from Temple University Beasley School of Law and is currently enrolled in the Graduate Tax Program at Temple University Beasley School of Law to earn a LL.M in Taxation. Ms. Snyder is also an honor graduate from the Fox School of Business of Temple University.

B. BLOGS

1. The following are a few of the business, tax, employment, estate planning and business litigation blogs posted on our main website www.pozzuolo.com during the past month:

- a. Five Sources Of Money For Your Startup;
- b. Selling Your Business: Eight Steps; and,
- c. Orphans' Court Has The Authority To Modify Incapacitated Person's Will?

Please visit our website www.pozzuolo.com for more information on these and other relevant business, tax, estates and employment topics.

2. The following are a few of the family law blogs posted on our family law website www.pozzuolofamilylaw.com during the past month:

- a. Can I Ask The Court To Change The Child's Last Name To Mine If I Am Not Married To Child's Mother? ;
- b. Father's Petition To Modify Mothers Primary Physical Custody; and,
- c. Mother Awarded Primary Physical Custody Of Minor Children Due To School Commute.

Please visit our website www.pozzuolofamilylaw.com for more information on these and other relevant family law topics.

Please visit our Facebook page to read all of our past and future blogs: Pozzuolo Rodden, PC

Alimony Tax Changes Under The Tax Cuts & Jobs Act May Affect The Dynamics Of 2018 Year End Divorce Proceedings And Settlements

For years before the passage of the Tax Cuts and Jobs Act ("TCJA"), the payment of alimony would be deducted by the former spouse making the alimony payments for Federal income tax purposes and the payment would be reported as income for Federal tax purposes by the former spouse receiving the alimony payments. However, with the passage of the TCJA, the way that alimony is treated for purposes of Federal income taxes has been drastically changed. Any divorce or separation instrument executed after December 31, 2018 shall be subject to the provisions of the TCJA which provides that the former spouse who is paying alimony is unable to deduct the payments for Federal income tax purposes and the former spouse receiving the alimony payments does not have to include the alimony payment in his/her income for Federal tax purposes. For income tax purposes, the new law puts alimony payments in line with child support payments.

Further, in order to qualify as tax deductible alimony under the TCJA for instruments executed prior to the December 31, 2018 deadline, all of the following requirements must be met for the payment:

- 1) The payment must be made pursuant to a written divorce or separation instrument that was executed before the December 31, 2018 deadline;
- 2) The payment must be to or on behalf of one of the spouses or former spouses;

- 3) The written divorce or separation instrument cannot state that the payment is not alimony by stating it is not deductible or not includable in the receiving former spouse's income;
- 4) The spouses or former spouses cannot live in the same household or file joint tax returns;
- 5) The payment between the spouses must be made by cash or cash equivalent;
- 6) The payment cannot be written into the divorce or separation agreement labeled as child support;
- 7) The tax return of the paying former spouse must include the receiving spouse's Social Security Number, and;
- 8) The obligations to make the payment cannot continue after the receiving former spouse dies (unless it is the payment of delinquent amounts).

Most significantly, because the alimony payer is usually in the higher income earner and in the higher tax bracket of the two parties, the changes under the TCJA could have a substantial impact on taxes that must ultimately be paid by the payer/higher income earner. Due to these tax implications, if you are presently a party to a divorce proceeding or planning on filing for divorce, it may be in the best interest of the higher earning spouse to negotiate, finalize and execute a divorce or separation agreement before the December 31, 2018 deadline imposed by the TCJA. This will allow you to take advantage of the current laws which allow the alimony paying spouse to deduct the amount from taxable income thereby saving you income taxes and allowing more dollars to be available for the property settlement agreement. That is to say it is in both parties' best interest to finalize a property settlement agreement that is most tax efficient so that both parties can share the tax savings, especially since this tax planning technique to finalize a divorce agreement is not obtainable or at hand after December 31, 2018.

These changes under the TCJA as to how alimony is treated for Federal tax purposes will have a major impact on divorce and separation negotiations and litigation once they take effect after December 31, 2018. Our family law attorneys will continue to monitor the impact of the TCJA as it develops once the changes are implemented.

PUBLICATIONS

All of the following professional publications and past newsletters written by attorneys of this office are available by clicking here: http://pozzuolo.com/Pubs_Articles.shtml

Corporate/Tax Articles

- Bankruptcy - How To Prevent It And How To Cope With It Should It Happen To Your Business
- Deferred Compensation Rewards And Retains Key Employees
- Design Buy-Sell Agreements For Maximum Utility
- How An S Corporation Avoids The Double Taxation Incurred When Excessive Compensation Is Treated As A Dividend
- How Mortgage Lenders Should Draft Broker Agreements To Avoid RESPA Violations
- How To Look, Act And Sound Like A Professional Corporation
- How to Structure a Suitable Buy-Sell Agreement

- How To Use Non-Qualified Deferred Compensation Arrangements As A Business, Retirement And Tax Planning Tool
- Money Purchase Pension Plan Falls Out Of Favor
- Protecting A Client's Business From Unfair Competition Using Restrictive Covenants
- Structuring Loans From Qualified Plans - How To Handle The Strict Tax Rules
- What Type of Qualified Corporate Retirement Plan Best Serves Your Business, Tax And Retirement Needs
- Why An Employment Contract Is Mandatory

Estate Planning Articles

- Adapt Estate Planning Strategies to Fit the Needs of Same-Sex Couples
- College Funding Tool Offers Estate Planning Advantage
- Diversify Strategies For An Effective Estate Plan
- Divorce and Estate Planning
- Divorce Raises The Need For Performing An Estate Planning Review
- Drafting The Durable Power Of Attorney For Wealth Protection Purposes
- Estate Planning For Pet Owners
- Remarriage Situations Can Raise Special Estate Planning Considerations
- Six Proven Estate Planning Techniques
- Special Needs Trust - An Estate Planning Tool For The Disabled
- The Limited Liability Company -A Sophisticated Tool For Estate Planning
- Using Trusts To Maximize Family Protection And Minimize Estate Tax
- Why Living Wills- Advance Directives Are An Essential Part Of Estate Planning

Actual resolution of legal issues depends upon many factors, including variations of facts and state laws. This newsletter is not intended to provide legal advice on specific subjects. It is to provide insight into legal developments and issues. You should always consult with legal counsel before taking any action on matters covered in our updates.

This newsletter is courtesy of Pozzuolo Rodden, P.C.

To subscribe, unsubscribe, or for any questions, please contact us at INFO@POZZUOLO.COM.