

JULY 2019 NEWSLETTER

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IS YOUR ESTATE PLAN OUT OF DATE?

FIRM ANNOUNCEMENTS

A. AWARDS

Pozzuolo Rodden, P.C. is pleased to announce that Joseph R. Pozzuolo was awarded The America's Most Honored Professional 2019-Top 1% by the American Registry. The American Registry was selected to be the official and authorized recognition partner for some of America's most trusted professional organizations at identifying business excellence. These organizations rigorously gather up peer review ratings, client reviews, industry analysis to ultimately uncover the best of the best professionals in the business. For 2019 the American Registry proudly announced that Joseph R. Pozzuolo is one of America's Most Honored.

Pozzuolo Rodden, P.C. is pleased to announce that Joseph R. Pozzuolo has been named a 2019 Lifetime Achievement Award recipient. Less than 5% of Marquis Who's Who listees are selected for this honor.

Pozzuolo Rodden, P.C. is pleased to announce that Joseph R. Pozzuolo received a Very High Rating in both Legal Ability and Ethical Standards from Martindale-Hubbell.

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. What Property Is Included In Probate?;
- b. Rescission Of Job Offer Is Not In Retaliation For Prior Equal Employment Opportunity Activity; and,
- c. Forced Buyout Of Fired Minority Member's LLC Interest Revalued By The Court.

Please visit our website www.pozzuolo.com for more information on these and other relevant business, tax, estates, business litigation 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. Business Valuation In Divorce;
- b. Installment Payment Plan Of Marital Estate To Wife To Avoid Financial Hardship; and,
- c. Husband Held In Civil Contempt For Failure To Make Equitable Distribution Payments.

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

Is Your Estate Plan Out Of Date?

Many things happen in life that requires individuals to reevaluate their estate planning documents. Estate planning documents need to be reviewed and updated every 5 years or so depending on the individual's age and circumstance. However, there are certain life moments which require a person's will, health care directive, or power of attorney to be updated or even re-written. If any of the following situations apply to you, it might be time to reevaluate your estate plan:

1. Change in health or family circumstance.

No one plans to get sick but if you suddenly have a life altering health issue, you may need to scale back your bequests to cover increased living, medical and medical care expenses. In the alternative, if you have a sudden illness giving you little time to live you may want to spend part of your savings on that once in a lifetime dream family vacation. In other words, if your health has changed, so may your estate planning documents.

2. The individual named as your agent in your healthcare proxy or power of attorney is no longer appropriate.

Your agent, attorney in fact, or healthcare agent named in your health care directive or power of attorney becomes disabled, has died or moved to another state. You now need to appoint a replacement.

3. Financial circumstances have changed.

The value of your estate could be drastically different from the time you wrote your will. You might have more wealth and want to leave your wealth in a trust for your children and/or grandchildren. On the other hand, you could have spent most of your wealth to fund your retirement and no longer need a trust to manage your assets after your death for your children and/or grandchildren.

4. Fiduciary and/or beneficiaries have died or become disabled.

Most married individuals name their spouse as their fiduciary in his/her estate planning documents, namely, his/her executor, co-trustee, or attorney-in-fact. None of us like to consider the possibility of losing a spouse. However, if it does happen, you will need to revisit your estate plan. Who do you want to act as your fiduciary, Executor, Trustee and/or “Agent” or “Attorney in Fact” going forward?

Another unfortunate circumstance is if a beneficiary, spouse or child becomes disabled. You might not want to leave him/her a larger inheritance or you might want to consider creating a special needs trust. The death or disability of a beneficiary is an important time to reevaluate your estate plan.

5. You separated or divorced your spouse or partner. You got remarried or are in a new significant relationship.

A change in relationship status is likely to mean that you will want to change your estate plan. If you are in a significant relationship you may want to add him/her as a beneficiary. If you get remarried and your new spouse has children you may want to provide for your second spouse but be certain your children from your first marriage are provided for after the death of your second spouse.

6. New child or grandchild.

Having a child is a major milestone and with that comes greater responsibilities. One of those responsibilities is to appoint a guardian for minor children if something happens to you and your spouse. In addition to the other responsibilities, appointing or selecting a Guardian of the Person of your minor children is one of the most important tasks in estate planning documents. Many first time parents postpone naming the Guardian of the Person of their minor children because they cannot agree on whom to choose. However, it is important to reevaluate your estate plan once the little one is

born. Also, new grandkids could also affect your estate plan. Helping fund a grandchild's education with 529 qualified tuition plan is a popular option and making sure your child's share passes to his/her children at his/her death must be considered.

7. Children becoming adults.

You may have created your estate plan when your children were young and your documents may include trust provisions reflecting that. However, now they are adults, you need to go back and reevaluate some of those provisions. For instance, when your children were young you might have placed your assets in a trust for him or her to receive at a certain age or ages. Your children could be past that age or ages. Do you still need a trust? Or do you want to raise the age of distribution if they are not ready to receive your wealth outright or are in a bad marriage? On the other hand, as your children have grown they may have matured. They might be ready to receive and/or manage your wealth at an earlier age. Or they might be able to handle a larger percentage at an earlier age. These are all reasons to revisit your estate plan.

8. Disapprove of kids' lifestyle/ decisions/ spouse.

As your child got older, they might have developed a drug dependency, a criminal history or simply have a belief/lifestyle you do not agree with. Your child could have moved away and you rarely, if ever, see or talk with him/her. Your child could be married or living with someone whom you do not approve or think well of, or does spend or waste your child's money. You may want to limit your bequests to such child or provide the bequest in trust to provide him or her with basic life and health care necessities/insurance and not enabling him/her to continue his/her bad habits or life style or lose your wealth in a nasty divorce.

9. You or a Beneficiary received a large inheritance.

Your estate might have increased from an inheritance. At this point you may want to revisit how you want your children or other beneficiaries to receive a share of your increased estate. As mentioned, a trust or generation skipping trust is a great option for children receiving large inheritance. In the alternative, if your beneficiary receives a large inheritance from another person or in law, you may want to leave a larger share of your estate to another child who has less, or even a portion to a favorite charity.

10. Business has grown.

When you first created your estate plan your business was probably small but growing. If your business is now a multi-million dollar business with many employees and customers, you need to review what happens to the business when you leave, become disabled or die. Will a child take over or will the business be sold? You need to address how federal estate taxes will be paid if your wealth is mainly in the business and exceeds the federal estate tax exemption.

11. You retired.

After retirement you lose your income source and may question what you want to do with the rest of your life. You may decide to buy a home in Florida or travel the world. As with any other major life event, it is important to reevaluate your entire estate plan.

12. Have you changed your mind on certain aspects of your estate plan.

Is there something in your Will that you want to change? You may want to make a small change with a codicil, or, if needed, write a new will. You may have a new tangible personal item(s) you want to leave to a specific person and want to add the bequest to your will.

13. Changes in the law.

The Tax Cut and Jobs Act of 2017 changed the face of estate tax for everyone. It affected a variety of income tax rates, brackets and deductions. More importantly, it doubled the federal estate tax exemption to \$11.4 million per person. In other words, if your estate is worth \$11.4 million or less at the time of your death, your estate will owe no federal estate taxes. Although there might still be inheritance tax on the state level, the new law drastically changed the way estate planners and wealthy individuals (under \$11.4 million) view their estate plan and has eliminated the need for many trusts.

14. You moved to another state.

State laws vary and are not the same in every state. Each state has its own laws governing wills, trusts, probate, powers of attorney, advance medical directives, and living will. Therefore, if you have moved to another state you need to know whether your current estate planning documents are valid in the new state. Also, if you acquire a second residence, you might want to discuss with your planner whether the new state can be considered your principal or secondary residence.

15. Will is more than 10 years old.

If your will has not been changed in over 10 years, the paper on your will is turning yellow or brown, or your documents are becoming hard to read, it is time to reevaluate your estate plan. If it has been that long, likely more than one of the above red flags will apply.

Your estate plan is not something you think of once, complete and forget about until your death. Different stages in life and situations require updates and changes to the plan. An estate plan is something that continues with you throughout your life and should be reevaluated periodically to ensure your final wishes are provided for.

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.