

# SEPTEMBER 2021 NEWSLETTER

**POZZUOLO RODDEN POZZUOLO, P.C.**  
**COUNSELORS AT LAW**  
**THE BYE-BENSON HOUSE**  
**2033 WALNUT STREET, PHILADELPHIA, PA 19103**  
**215-977-8200**

[www.pozzuolo.com](http://www.pozzuolo.com)



## **TOP 5 ESSENTIAL ESTATE PLANNING TOOLS DURING THE PANDEMIC**

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### **NAME CHANGE ANNOUNCEMENT**

It is with great pleasure we announce an exciting new chapter for our firm. Effective September 1, 2021 Pozzuolo Rodden will change its name to Pozzuolo, Rodden, Pozzuolo, Counselors at Law. The firm's name change recognizes the hard work, leadership and community service of Jeffrey S. Pozzuolo during the last decade. Jeffrey has been a trusted and skilled practitioner in our firm's core business, transactional, tax, and estate planning areas. This includes hundreds of multi-million dollar business and real estate sales and acquisitions including securing, negotiating and finalizing financing with investment, commercial and institutional lenders through closing and the related estate planning for high net worth clients arising from the transaction. In addition, Jeffrey S. Pozzuolo has taught numerous courses in all of these advanced fields through the years. His practical and multifaceted approach, as well as creatively always searching for a win-win, allows him to quickly and effectively cut through the red tape of difficult issues that arise and the games counterparties can play to simplify the process and "close the deal" with business transactions, and to find creative and practical

solutions to integrate the business transaction with the client's estate planning to best meet their estate tax and dispositive needs.

Pozzuolo Rodden feels incredibly lucky to provide these advanced, sophisticated boutique services and day to day practical, hands-on experience from an accomplished academic. Jeffrey has JD/MBA and LLM in Taxation degrees from Temple University Beasley School of Law and Fox School of Business. In addition, Jeffrey graduated Magna Cum Laude from The Wharton School of the University of Pennsylvania with a BS in Economic (Finance and Accounting) and a BA in mathematics from the College of Arts and Sciences. This breadth of education gives him a perspective most other attorneys do not have to find creative solutions to offer our clients the sophisticated experience one would expect of a specialist with the "hands on" personalized attention and execution of a boutique specialized law firm. We feel incredibly lucky to have him on our team and to you – our clients, colleagues and friends – to work for and to work with.

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## TOP 5 ESSENTIAL ESTATE PLANNING TOOLS DURING THE PANDEMIC

Traditionally, when people think of setting up an estate plan, they simply think of having a Will drafted. However, the recent pandemic has highlighted more than ever the importance of other often overlooked estate planning documents everyone should have in place, in all instances.

The first is a Living Will and designating a Health Care Surrogate. The Living Will sets forth certain terminal health care advance directives for the type and level of end of life medical care such as whether to be kept alive on respirators, feeding tubes and such when there is no or an extremely slim chance of recovery. The designation of a Health Care Surrogate gives someone the HIPPA legal authority to talk to your doctor, manage your medical decisions and even make medical decisions for you if you cannot. Living Wills became important with many elderly individuals in a coma being kept alive for months on respirators due to the COVID-19 virus with no chance of recovery.

The second is a General Durable Power of Attorney. This allows someone to manage someone's financial affairs if the person is disabled. This was and still is important for the debilitating, long term COVID-19 illnesses and resulting incapacity. The Power of Attorney ensures the principal's assets are managed and bills are paid. This is extremely important if a couple need access to the income and assets of the disabled spouse to cover joint family bills and expenses. The typical example is if one spouse becomes disabled and both spouses rely on the earnings, disability, social security and/ or pension income of the disabled spouse. If funds are being deposited into that disabled spouse's individual account, the funds to pay the mortgage, rent, utilities, feed the family etc. may go into an account that cannot be accessed by the non-disabled spouse without court appointed intervention and the resulting unnecessary long term delay. In fact, many courts were not even opened for months and when opened had remote hearings months later. Mortgage lenders, utilities, landlords and credit card companies do not want to wait months until the court approves a Guardian to access funds to pay normal monthly bills. The General Durable Power of Attorney allows access to such accounts so bills can be paid without the expense and delay of court intervention.

The third is Life and/or Disability insurance. For both dual income and single income households, if one of the incomes or the sole income ends it may result in the failure to be able to provide the basic necessities and to continue the life the family has been accustomed to living. The best protection is to purchase term life and/or disability insurance, especially if the family is relying

on one or both spouses' incomes. By paying a small amount each month, if one of the parents/spouses pass away or becomes severely disabled, it provides a large lump sum payment or continued monthly income to continue to make mortgage/rent payments, possibly pay off the mortgage, and provide a lump sum of money giving the family enough time to adjust to the new reality.

The fourth tool is one that usually does not get classified as an estate planning tool, but is very important, is proper health insurance. Many families, who did not have (proper) health insurance and had a spouse infected with the virus who ended up on a ventilator, had a rude awakening when they received the hospital bill after the fact. If a couple has \$2 million saved for retirement, but suddenly has \$1 million plus in medical expenses not covered by health insurance because one spouse became severely sick with the COVID-19 virus, their retirement plans and family's estate inheritance planning are greatly affected, if not destroyed and eliminated

The last tool, but not the least, is titling assets in a Revocable Trust. Trusts have become especially important doing the past 18 months as many counties around the country either stopped processing wills for probate or had long delays. New York City had delays of up to six months once it opened, and Philadelphia County had a shutdown and then a three to four month delay to obtain even a remote probate appointment. This meant mortgage payments, utilities and taxes went unpaid, bank and investment accounts were left in limbo without access, control or management, rental investment properties owned by the decedent could not be effectively managed, and property sales and contracts contemplated before death were in limbo for months, as after someone's death, even with a valid Power of Attorney, no one has legal authority to act or close for that person until after probate. Many mortgage lenders, taxing authorities, and contract counterparties did not understand. Moreover, almost all estates, which did not have family members with independent means, were not able to receive a 5% discount by paying the Pennsylvania inheritance tax within three months of the decedent's death.

Having assets titled in a Revocable Trust helps to alleviate many of these concerns. The Trust will usually designate the grantor (person that funded the trust) as the Trustee, but in the event of such person's disability or passing, the Trust designates a successor Trustee. This allows the assets and the person's financial affairs to be properly managed almost automatically at disability, incapacity or death without the need for probate or the court appointment of a Guardian. This means mortgages, rents, utilities and taxes continue to get paid, investments continue to be properly managed, and contractual relationships and property sales can continue to close without a hitch. It helps ensure the grantor's estate continues to be taken care of during disability/incapacity and the grantor's affairs can be managed after death.

If you are missing any of these common estate planning tools or simply want to update your existing plan, please do not hesitate to contact us. The risks are not new, but the recent pandemic has highlighted the reason it is important to have these measures in place sooner than later.

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

To subscribe, unsubscribe, or for any questions, please contact us at [INFO@POZZUOLO.COM](mailto:INFO@POZZUOLO.COM).