

INSIDE THIS ISSUE...

- We're now Kiselstein Franckowiak Law GroupPg. 1
- Illinois' New Certification of TrustPg. 1
- Family Members Need Planning TooPg. 1
- 2016 Tax & Rate Contribution ChartPg. 2
- Loaning Money To Your Children While Maintaining Family HarmonyPg. 2
- Ten Common Estate Planning Mistakes To AvoidPg. 3
- Short-Term Guardianship For Grandparents While Taking Care of the GrandchildrenPg. 4

Estate Planning Is Not Only For the Elderly or Rich...Everyone Needs An Estate Plan

We want your children and your brothers and sisters to join our "family" of clients. Certainly, if they have children, they should at least have a Will and if they own their own home they should have a Trust. They need to protect their families from Probate and create a distribution plan for their children, in the event something happens to them. Anyone over 18 should also have Powers of Attorney for Health and Property. They need these Powers of Attorney to manage health and financial issues in the event of disability and without the intrusion of the Guardianship Court. We continue to provide a 10% courtesy to family members on our flat fee schedule of services.

If family members schedule an appointment before May 31st, we will increase the courtesy to 15%.

We Are Now The Kiselstein Franckowiak Law Group
NEWSLETTER

Trusts, Estates, Taxes & Asset Protection - A Problem Solving Law Firm

The Law Offices Of Bruce Kiselstein, Ltd
Is Now the Kiselstein Franckowiak Law Group

We are extremely proud to announce that **Lenore D. Franckowiak** has become a partner in the firm. The firm name has been changed accordingly. Lenore has been with the firm for 5 years and continues to concentrate her practice exclusively in estate planning. A life long resident of the Chicagoland area, Lenore received her Bachelor of Arts degree in Sociology from DePaul University and earned her Juris Doctorate from Loyola University School of Law. Mrs. Franckowiak was licensed to practice law in 2004 and has dedicated her practice to designing and implementing comprehensive estate plans for individuals and families, handling the administration of Trusts, and Probate Estate proceedings. She is a "regular" on the 18th floor of the Richard J. Daley Center, more commonly known as the "Probate Court".

Those of our clients who have had the pleasure of working with Lenore over the years, have praised her attention to detail, her comprehensive planning skills, and her compassion for understanding every family's specific needs and objectives. She has an amazing ability to begin with what appears to be a difficult family planning dynamic and create an easy to understand solution. Clients have also commented on Lenore's good nature and sense of humor.

Lenore is a member of the Illinois State Bar Association, Northwest Suburban Bar Association, and the Northwest Suburban Estate Planning Council. Lenore has recently been appointed to the Northwest Community Hospital Advisory Council on Gift Planning. She resides in Park Ridge with her husband and two children. (*Franckowiak is pronounced Fran-ko-vee-ak*)

Illinois Creates Statutory Certification of Trust

On August 15, 2015, the Illinois legislature approved a long needed change to the Trust & Trustees Act. It allows attorneys to write a short summary version of your Trust that will be accepted by financial institutions, as a substitute for the entire Trust document. For 28 years, our office has provided our clients with a short summary of their Trusts. You can find yours in your 3-ring Trust binder, called a Memorandum of Trust. The purpose of this document was to preserve the privacy of your Trust and to avoid photocopying a 30, 40, or 50 page Trust. The problem some of you have had over the years, is that many of your banks and investment brokers refused to accept the Memorandum. The new Act specifically describes the parts of the Trust that must be included in the "Certification" and indicates that financial institutions can rely on it without liability. It reads very much like your current Memorandum with a few new additions. Financial institutions may be held liable for damages, for refusing to accept it. Note: it will not be accepted by a title insurance company when you buy or sell real estate owned by your Trust. Please contact us at 847-670-8200, if you are interested in this great new tool.

2016 Tax and Other Rates

TAX OR EXEMPTION	AMOUNT	CONTRIBUTION LIMITS	AMOUNT
Annual Gift Exclusion	\$5,450,000 per person	401(k), 403 (b), & 457 Plan Annual Contribution Limit	\$18,000.00
Federal Estate Tax Exclusion Amount	\$5,450,000 per person	401(k), 403(b), and 457 Plan Over age 50 "Catch-Up" Extra Contribution Limit	\$6,000.00
Illinois Estate Tax Credit	\$4,000,000 per person	Roth IRA/IRA Annual Contribution Limit (may be limited by higher income)	\$5,500.00
Estate Tax Rate - Federal	40% on excess above \$5,450,000	IRA & Roth IRA Over Age 50 Contribution Limit with "Catch-Up" (may be limited by higher income)	\$6,500.00
Income Tax Rate on Irrevocable Trusts	39.6% on income over \$12,400.00	Maximum Contribution to Health Savings Accounts (HSA's) (add \$1000 if over age 55)	\$3350 for singles and \$6750 for families

Have You Loaned Money to One of Your Children? The Best Way to Lend Money to a Child and Maintain Family Harmony

We have recently seen an increasing number of clients who have adult children that are having financial difficulty in today's economy. It has become common for parents make loans to their children. How that loan is structured (or not structured) can have a profound effect on the ultimate distribution of your Trust assets and if not done correctly can quickly create disharmony among your children.

Many of our clients who have children design their estate plan to distribute Trust assets equally between their children. When a parent gives a child a loan, they tend to consider the amount given as an "advancement" of the child's inheritance, intending that upon the parent's death the value of the loan will be equalized among the remaining children when it comes time to distribute the Trust assets. Unfortunately, if the loan is not documented correctly, the ultimate goal of treating each child equally is not easily achieved and causes great stress, tension, hurt feelings and fighting between the siblings.

For example, on many occasions at trust administration meetings, the Trustee/child will produce a note written by their parent that says something like, "During my lifetime I gave \$100,000 to your sister, Jane. If this loan is still not paid on my death, your are to deduct \$100,000 from Jane's share of my estate". At first, that note may seem clear as to the parent's intentions; however, the Trustee/child/beneficiary may have difficulty determining exactly how to make the Trust distributions based on the note and the child who received the loan may have a different interpretation as to how the final Trust distributions should be made.

As an illustration, below are two ways that the repayment of the loan of \$100,000 to Jane mentioned above can be calculated based on \$1,000,000 total Trust assets. This illustration is made assuming there are three children who are all equal Trust beneficiaries:

- 1) Making a distribution of \$100,000 each to Jane's two siblings before dividing the Trust assets three ways:

\$100,000 to Robert

\$100,000 to Joseph

\$800,000 divided equally between Jane, Robert, and Joseph (\$266,666 each)

Total to Jane \$266,666 + the \$100,000 loan = \$366,000

Total to each of Robert and Joseph \$366,666 (\$100,000 + \$266,666)

(continued on page 3)

Loans To Your Children (continued)

2) Deducting the \$100,000 loan balance with a literal interpretation of the written note “if this loan is still not paid on my death, you are to deduct \$100,000 from Jane’s share of my estate”:

\$1,000,000 divided equally between Jane, Robert, and Joseph (\$333,333.33 each)
 -\$100,000 from Jane’s share which adds \$50,000 to each of Robert and Joseph’s shares
 Total to Jane \$233,333.33 from the Trust + the \$100,000 loan = \$333,333.33
 Total each to Robert and Joseph is \$383,333.33 (\$333,333.33 + \$50,000)

Option 1 is calculated on the assumption that the parent wanted all 3 children to end up with the same total amount, which they did. Option 2 is calculated on a literal interpretation of what the parent wrote and causes Jane’s total amount to be \$50,000 less than each of her brothers’ amounts. When estate planning documents are not written clearly and are open to interpretation, problems will arise. In this example, we can only assume that it was the parent’s intention to place all three children in an equal position of having ultimately received the same amounts from the parent; however, the two brothers have a strong argument that the written note from the parent should be interpreted literally, which would increase their shares. **If you have made a loan to one of your children, do not leave your intentions open for interpretation.**

Please call us to make an appointment to discuss the appropriate way to structure the loan to your children. We may consider executing a promissory note payable to your revocable living Trust and/or an amendment to your Trust to include clear and appropriate language. ***The cost to properly document the loan to your children is minimal compared to the cost of potential litigation fees and the irreparable damage to the siblings’ relationship.***

Ten Common Estate Planning Mistakes To Avoid

1. Naming a successor trustee or executor who may no longer be the best person to handle the responsibilities of closing your estate for any one of many reasons (too far away, poor health, bad with finances, no longer trustworthy, no longer gets along with one or all of the beneficiaries, has a controlling spouse who will interfere, and more);
2. You have transferred significant money to one or more of your children without specifying whether it is a gift, an advancement of their inheritance, or a loan with a balance to be repaid (problematic if balance exceeds that beneficiary’s share of your estate/trust);
3. Failure to set out in writing who will receive that special item of personal property, like your car, diamond ring, artwork, porcelain figurine, coin collection, guns (watch out for FOID cards), and all the other precious possessions you may have;
4. Making do-it-yourself changes to your Trust or Will in ink or on your home computer, without qualified and competent legal advice (*note: you should never write on your original estate planning documents*);
5. Not placing a co-signer on the signature card to your safe-deposit box, so that it can be accessed after your death;
6. Storing your Will or Trust documents in a place that is either inaccessible (#5 above) or difficult to locate;
7. Treating all of your children exactly the same in your estate plan, even when one or more of them may have special needs or financial circumstances;
8. Failing to provide your Trustee, Executor, or agent named on your Power of Attorney, with needed information (like user identifications and passwords) to locate and obtain access to your accounts;
9. Owning assets in joint tenancy accounts with your spouse or other person that may be contrary to your overall estate plan; and
10. Failing to fund your Trust(s) with all of your assets, by changing titles and beneficiary designations. We have discussed this mistake in many of our past newsletters and told you that too many of our deceased clients who have Trusts, are required to have their families go through the costly and time consuming Probate process because they left assets (totaling more than \$100,000), out of their Trust(s).

LAW OFFICES OF BRUCE KISELSTEIN, LTD.

930 East Northwest Highway
Mount Prospect, IL 60056

*“Trusts, Estates, Taxes, and Asset Protection....
A Problem Solving Law Firm”*



Annual Newsletter
New Federal and State Law
Information Enclosed

Do You Care For The Grandchildren When The Parents Are Away? You Should Have Short-Term Guardianship Documents In Place “Just In Case”.

In Illinois, a short-term guardianship allows someone chosen by the minor child’s parents to become the child’s legal guardian for up to 365 days. A short-term guardianship gives the parent the ability to temporarily delegate guardianship responsibility without court involvement. **It is important for a grandparent to have an executed short-term guardianship document in their possession anytime that the grandparent is acting as a caretaker for more than 24 hours.** Having short-term guardianship forms completed and ready to execute can be especially useful during periods when parents are out of the state or country for vacation, hospitalized, incapacitated, or otherwise away from their children.

To be appointed as a guardian you must:

1. Be at least 18 years old;
2. Be a U.S. resident;
3. Be of sound mind;
4. Have no felony convictions that involved harm or threat to a minor, elderly or disabled person; and
5. Not have contributed to child abuse or neglect.

A short-term guardianship can be revoked at any time by the parents by any means of communication. ***Please contact our office if you are interested in learning more about short-term guardianships.*** We provide parents and grandparents with Short Term Guardian forms for \$100 per child. Each child requires a separate form.