

Trusts & Estates Update: May 2014

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THE TAX ADVANTAGES OF PREPAYING TUITION EXPENSES

Many families' children are in private schools, and the expense of a private education is soaring annually. If parents are paying this expense themselves, the usual debate is which item must give in the family budget, in order to make room for tuition payments for one, maybe two, or even three children. In many cases, however, it is the grandparents who are paying these expenses, sometimes as part of their estate tax reduction plan, and sometimes simply out of the goodness of their hearts. They will frequently do so by giving the tuition money to their children as an annual gift, or by paying the tuition expense directly to the school every year as the bills come in. As many of you already know, a direct tuition payment is more estate and gift tax efficient than a gift to the child, as the direct tuition payment does not count against the \$14,000 annual gift that each parent can make to the child under current law. Even more beneficial than a direct tuition payment, however, is a prepaid tuition arrangement. As the school year ends and families begin summer gatherings, now is an optimal time to begin thinking about how this tax planning opportunity can be incorporated into the family's finances and gift and estate tax planning.

Perhaps a little refresher on the gift tax will be helpful here. Gifts can generally be made in increments of \$14,000 per person (there is no requirement that the donee be related to you, though that is usually the case) per year (\$28,000 in the case of a married couple) without filing a gift tax return if each person makes a separate gift. Larger gifts to each person, ("taxable gifts"), although requiring a gift tax return filing, will not cause a gift tax to be due until your lifetime taxable gifts exceed a total of \$5,340,000^[1]. Gifts of tuition expenses paid directly to a school are not subject to these rules at all.^[2] Therefore, a grandparent could pay a grandchild's tuition and make a \$14,000 gift to the grandchild, as well as an annual gift to the child, without using any of the grandparent's \$5,340,000 exemption from the gift tax. Since lifetime gifts go a long way towards reducing federal and state estate taxes, this kind of planning preserves more of your estate for your family, while reducing Uncle Sam's share of it. [Click here](#) to read more.

T&E LEGAL UPDATE

Internet Wills: A Cautionary Tale

In the past decade, a number of websites have been created for the purpose of offering individuals quick and inexpensive methods to create seemingly “simple” estate planning documents. While these options do save money in the short-term, such efforts can backfire when the individual has passed away, leaving his or her beneficiaries with expensive litigation necessary to interpret a document that was created without proper legal advice.

A recent case before the Florida Supreme Court, [Aldrich v. Basile](#) (Fla., No. SC11-2147, March 27, 2014), illustrates the dangers inherent in using pre-printed legal documents. A Florida resident, Ann Aldrich, drafted a will using an “E-Z Legal Form.” She listed her home and all its contents, her automobile, an IRA, a life insurance policy and several bank accounts which were left to her sister, unless her sister, Mary Jane Eaton, predeceased her, in which case the assets were left to her brother, James Aldrich. The will contained no residuary clause to dispose of the residue of Ms. Aldrich’s assets. As it turned out, Ms. Eaton predeceased Ms. Aldrich, leaving her additional money and real estate, but Ms. Aldrich never revised her will to include the newly acquired assets. Later, Ms. Aldrich attempted to make a codicil indicating that as a result of Ms. Eaton’s death, all of her assets should pass to her brother, James, but the codicil was not witnessed by impartial witnesses and was therefore held to be invalid. [Click here](#) to read more.

MEMBER SPOTLIGHT

Jayne Mahoney is a paralegal of the firm in the Trusts & Estates Group. Jayne has been with Ruberto, Israel & Weiner for over six years. Prior to joining the firm, Jayne was a paralegal for a small law firm for over 20 years, where her main focus was in estate administration, probate and domestic relations. She has been in the legal profession for over 30 years. Jayne’s focus with RIW is in the area of estate planning, estate administration and probate. Jayne enjoys interacting with clients, and helping to facilitate the estate administration process during what can be a trying period. Jayne earned her Associates Degree from Fisher College, and her Paralegal Certificate from Bridgewater State College. In order to keep current with the ever-changing court rules and regulations, Jayne frequently attends seminars and conferences.



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Jayne was raised in East Bridgewater, and also raised her family there, where she was a member of the School Committee for twelve years. Now a resident of Plymouth, Jayne enjoys spending time with her family, walking, and traveling.

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