

# S & G Law Update

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## INCOME TAX UPDATE

### Keep Your Tax Returns

Frequently, clients ask how long they should keep their tax returns. Many people believe that seven years is long enough, but there are reasons why you might want to keep your returns (or an electronic copy of them) indefinitely:

- To protect yourself from audits.
- To prove the income tax basis for gifts.
- As proof to protect your Social Security benefits.
- To prove facts in civil litigation.
- To keep track of taxability of IRA withdrawals.

Contrary to what you might think, the IRS does NOT maintain your tax records forever. You should think about doing so. ■

**Call us with questions**

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## New Laws

Here are a few new laws that may affect you or your family:

### Dog Tethers

The Humane Care for Animals Act has been amended to prohibit the tethering of dogs with tethers that are shorter than ten feet or that weigh more than 1/8 of the dog's weight. Tethering with a tow chain or log chain is prohibited. Further, the tether cannot be attached to the dog with a pinch, prong or choke-type collar.

The amendment to the act also prohibits tethering a dog with health problems that could be made worse by tethering, and no dog may be tethered for more than 15 minutes at night unless they have access to adequate shelter from bad weather.

There are some additional restrictions as well as some exceptions. The law takes effect immediately. If you have questions, give us a call at 281-7626.

### Surveillance Drones

Information gathered from drone surveillance that doesn't comply with this new Act is presumed to be inadmissible in court. Law enforcement must get a search warrant unless the situation meets one of the four exceptions, such as to counter a high risk of terrorism or to locate missing persons. However, the law doesn't take effect until January 1, so keep watching the skies!

### Electronic Insurance Card

Senate Bill 1775 and House Bill 3139 both allow a driver to show proof of insurance via a mobile electronic device as opposed to being limited to a paper insurance card.

## **Six Things To Do Before You Die**

No one lives forever. Estate planning, which deals with providing for ourselves as we age and taking care of loved ones after we are gone, is a constant reminder of that fact. So it's easy to understand why many people hate the topic and put off doing anything about it. Nearly 2.5 million Americans die each year, and many haven't signed the basic documents needed to protect those they love.

It is a good time to take stock of your life and do what's necessary. Here are some steps that should be on everyone's list:

### **1. Find something to enjoy about every day**

The economy has been lousy. Many are working harder than ever with no prospect of ever retiring. Many are worried about the world that our children and grandchildren will inherit. But, those birthdays are stacking up, so force yourself to appreciate at least something today, whether it's a walk in the sunshine, hugging your spouse or child, or having a good laugh with a friend. Live each day as if it was your last, because one of these days, it will be.

### **2. Make a bucket list**

Rob Reiner's 2007 movie, "The Bucket List," starring Jack Nicholson and Morgan Freeman as two terminally-ill men sharing the same hospital room, has inspired many people to make a list of things they still want to do in life. No matter how young or old you are, it will help you live life without regrets.

### **3. Sign documents to protect yourself**

Simple estate planning should start earlier than you might think. In most states, parents don't have the authority to make health care decisions or manage money for their kids once they turn 18, even if they still have those kids on their health insurance plans and claim them as dependents on their tax returns. That means if a young adult is in an accident and becomes disabled, even temporarily, a parent might need court approval to act on his or her behalf.

It should be a rite of passage for every 18 year-old to sign a health care power of attorney, authorizing someone to make medical decisions on his or her behalf if he or she can't, and a living will (also known as an advance directive) expressing his or her preferences regarding end-of-life care.

Every adult -- young or old -- should also sign a power of attorney allowing someone else to take over financial matters, if need be.

### **4. Provide for loved ones**

Contrary to popular misconception, you don't have to own a big house to have an estate. Your estate consists of everything you own in your own name when you die, including your home, personal property, investments, bank accounts, retirement plans, and any interests in a family business.

If you die without a will or trust, state law will determine how most of your belongings are distributed, and the result may not be what you would want. These laws establish a ranking of inheritors.

Further, if your children are minors and you were a single or surviving parent, a court will appoint a guardian for them. Therefore, reaching an agreement about this issue and formalizing it in a will is extremely important. Ideally, couples should agree on the choice of guardian, with each of their wills appointing the same person.

### **5. Review beneficiary forms**

Retirement accounts are distributed according to beneficiary designation forms filed with the bank or financial institution (the custodian) holding your account. With an IRA, you can readily name any beneficiaries you want, including friends, family members, a trust or charity. For a 401(k) or other workplace plan, you must get your spouse's written permission -- for example, if you recently got divorced or your spouse died -- file an amended form. Make sure to name both primary and alternate beneficiaries. Do not name your estate as beneficiary; that could cause your heirs to lose important income tax benefits.

### **6. Tell friends and family that you love them**

Some people never say this, at all. Others don't say it often enough. Don't leave any room for doubt. For those left behind, there is no greater comfort.

The lawyers of Stumpf & Gutknecht are always ready to answer your estate planning questions. Call us for an appointment at 281-7626. ■



## Jury Duty Scam

In various parts of the United States, citizens are being targeted by phone calls and threatened with prosecution for failing to comply with jury service in federal or state courts. In the calls, the threat of a fine for shirking jury service is used to coerce those called into providing confidential data, potentially leading to identity theft and fraud. These calls are not from real court officials.

Federal courts do not require anyone to provide any sensitive information in a telephone call. Most contact between a federal court and a prospective juror will be through the U.S. Mail, and any phone contact by real court officials will not include requests for social security numbers, credit card numbers, or any other sensitive information.

Jury duty is a vital civic responsibility and should be taken seriously by all citizens. However, it is a crime for anyone to falsely represent himself or herself as a federal court official. The federal judiciary takes seriously such an offense.

Persons receiving such a telephone call should not provide the requested information, and should notify the Clerk of the Court's office of the U.S. District Court in their area. For the Southern District of Illinois, call the office of the Clerk of Court Nancy Rosenstengel at 618-482-9371. ■

## This Newsletter

This newsletter is provided as a service to our clients and friends. It is intended to provide timely general information of interest, but should not be considered a substitute for legal advice. Be sure to consult with an attorney before taking action based on the contents.

We welcome comments and questions. We also welcome topic suggestions for future newsletters. Past newsletters are available on our website.

Finally, please be advised that this may constitute advertising material as defined under the Illinois Rule of Professional Conduct.



## Medical Marijuana

Soon, a person will be able to have a prescription for no more than 2.5 ounces of marijuana every two weeks for 42 serious or chronic conditions, including cancer, AIDS, and multiple sclerosis. That's enough pot to fill two small sandwich bags.

The prescribing doctor must have a prior and ongoing medical relationship with the patient. Patients have to buy the marijuana from one of 60 dispensing centers throughout the state and will not be allowed to legally grow their own. Workers at dispensing centers will undergo criminal background checks, the stores will be under round-the-clock camera surveillance, and users will have to carry cards that indicate how much they've bought in order to prevent stockpiling. The marijuana will be grown inside 22 cultivation centers registered with the state.

The law takes effect Jan. 1, but state regulators are likely to need months to come up with the rules. That means it could be until next summer before the first medical marijuana is dispensed in Illinois.

## More Conceal-Carry

Last issue, we laid out the new conceal-carry law. Now, what does that mean for those of you who are employers?

First, if your business is one where concealed weapons are not permitted by the law, you must post a State Police-approved 4x6 sign stating that firearms are prohibited on the property.

Even if the statute does not prohibit firearms at your business, you may still prohibit them by posting the same sign. We also recommend including the prohibition in your policy manual.

Finally, even if firearms are prohibited at your business, your employees are permitted to store firearms in their vehicles parked in your parking lot.

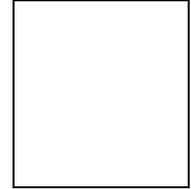
We would be happy to answer any other questions you might have. Give us a call.

## Recreational Land

Senate Bill 1042 amends this law so that owners of land who permit (without charge) a person to use their property for "recreational or conservation purposes" don't incur any liability except for willful and wanton failure to guard or warn against a dangerous condition, use, structure, or activity. But owners don't enjoy this protection if the owner invites or charges a person who enters the land for recreational use. ■

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ADDRESS CORRECTION REQUESTED

## **Buying a Farm? Some CRP Considerations**

Under the Conservation Reserve Program (CRP) the USDA is authorized to enter into contracts with owners and operators of land, “to conserve and improve the soil, water, and wildlife resources of such land and to address issues raised by State, regional and national conservation initiatives.” Under a typical CRP program, owners and operators implement a conservation plan instead of using the land for agricultural purposes. In return, the USDA pays the owner or operator an “annual rental payment.”

CRP contracts are with the owner-operator of the land or the tenant if the owner is not the operator. The landlord typically retains the CRP payments when the tenant’s lease payments are based on tillable acres excluding the CRP acres. In those instances, the tenant is not involved with the CRP land. In other situations, the tenant’s rent is based on the tillable acres plus the CRP acres. In those instances, the tenant maintains the CRP according to the CRP contract and receives the CRP payment.

Recently, the Tax Court found that CRP payments are self-employment income. In the past, there was some flexibility to take this income as investment income or

earned income depending on material participation. This flexibility may no longer exist without litigation. We predict that it will be difficult, if not impossible, for a recipient of CRP payments to exclude such payments from self-employment income.

The local USDA Farm Service Agency should be consulted to determine what government contracts cover farmland being purchased and how to deal with them.

The CRP fiscal year is October 1 to September 30, and payments are usually made in October for the prior year. CRP contracts last several years so purchasers should obtain assurances that the seller has complied with all of CRP requirements to the date of closing. If it is later determined that the seller was not in compliance, the purchaser may not be entitled to receive further CRP payments. Likewise, if the purchaser does not continue to meet all of the CRP conditions, the seller could be required to repay all of the CRP payments previously received.

Another concern when a farm is sold is the allocation of the CRP payment for that year. This should be addressed in the sales contract. The local USDA Farm Service Agency should be consulted to determine what, if any, allocations of payments will be permitted.

There are additional considerations. Give us a call. ■

