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QUALITY LEGAL SERVICES FOR A SECURE FUTURE.

Recovery of Public Assistance Funds

Missourians may be eligible for public assistance of one type or another during their lifetimes. Prime examples of public assistance are disability, for those unable to work, and Medicaid, which assists low income and needy people with health insurance.

Anyone receiving support from the Dept. of Health and Senior Services, the Dept. of Social Services, the Dept. of Mental Health, or a county commission, must pay the state back for expenditures made on their behalf, if there are assets with which to repay the expenditures.

When probating a decedent's estate, the Court will often require the personal representative to file an Estate

Notice with the MO Healthnet, which will either return a Release of Estate Claim, or disclose an amount that is due to the state of Missouri from the decedent's estate. Such amount must be paid to the state unless it would adversely affect a surviving spouse or dependents of the decedent.

Because the state requires repayment of benefits at death, it is usually not advisable to leave assets in a trust or will directly to a person receiving assistance. If a person receiving disability is the beneficiary of a gift, it may disqualify such person from continuing to receive benefits until the money is spent down. Consult with an estate planning advisor to avoid the pitfalls.



Public Assistance may have to be repaid to the State of Missouri after death.

Should You Revisit Your Estate Plan?



When I began practicing law, an estate became taxable at \$600,000. If it appeared an estate could exceed that amount, two trusts were made and the assets were split into each trust.

In 2017, however, an estate must exceed almost \$5½ million before estate tax is imposed. Unless a couple is likely to exceed that amount, a joint trust is fine.

Many clients have two trusts who do not need them. While you can maintain two trusts, if you are unlikely to exceed \$5½ million, it may be more efficient and less expensive to administer one joint trust.

When revisiting your estate plan, it is also a good time to review older powers of attorney for financial matters and health care as the laws have changed.

1031 Tax-Free Exchanges Viable Option Again

During the protracted economic downturn that began in 2007, there were very few tax free exchanges. Sellers were not selling and buyers were not shopping for real estate.

Today, sales have improved and a tax free exchange may be beneficial, especially if you have highly appreciated property or a low tax basis.

A tax free exchange allows you to sell real estate "held for investment" and purchase "like-kind" replacement property. Property is generally considered "held for investment" if it was purchased for income production or

appreciation. The replacement property must be "like-kind," which means real property cannot be replaced with something like personal property.

The seller must within 45 days identify properties (usually 3) to serve as the replacement property. And within 180 days after the sale of the exchange property, the replacement property must be purchased.

There are numerous other technical rules to successfully carry out a tax qualified exchange. Professional counsel is strongly advised.



A tax free exchange under section 1031 may save you significant tax dollars.

What if you Don't have a Will?

50% to 70% of American adults do not have a Last Will & Testament. If you do not have a Will, here is where your probate estate will go under Missouri's intestacy statutes:

- \$20,000 and ½ of the remaining estate to your surviving spouse if all of your issue* are with the surviving spouse; the other ½ to your issue, per stirpes.
- to the surviving spouse and ½ to your issue if some issue are not from the surviving spouse.

* Issue means children, or a deceased child's children (your grandchildren).

- If there is no issue, all to the surviving spouse.
- If there is no surviving spouse or issue, your parents, and siblings then living, or their issue, would inherit the estate, in equal shares.
- If no living parents, then to your siblings in equal shares.
- If none of the foregoing survive, then to grandparents, aunts and uncles or their descendants.

Most estates would find an heir before this point, but if no heirs are found, it eventually escheats to the state. Plan ahead to avoid the statute.



The State of Missouri has written a Will for you in case you don't.

Missouri's Right-to-Work Law



Missouri became the 28th state to pass a right-to-work law, signed by new Gov. Eric Greitens. Former Gov. Nixon had vetoed several attempts to enact the law.

The right-to-work statute is very simple. It states, "No person shall be denied employment on account of membership or nonmembership in a labor union."

As a result of the law, union membership is now optional, instead of mandatory, and membership and union dues cannot be deducted from workers' pay if they elect to be nonmembers.

Unions opposed the law, but supporters point to lower unemployment in states that have passed right-to-work legislation.



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