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QUALITY LEGAL SERVICES FOR A SECURE FUTURE.

HIPAA & Powers of Attorney

The Health Insurance Portability and Accountability Act ("HIPAA") provides regulations for the disclosure of your personal health information. You are able to obtain your own records easily enough, but if you want another person to obtain them for you, it may be a problem.

Issues often arise when a person dies, because only a court appointed personal representative is legally able to obtain medical records. A surviving spouse usually may not obtain the records.

Many medical providers have refused to release medical records to anyone other than a personal representative. I have had to go to the Probate Court on several occasions to have a personal representative appointed solely to gain access to medical records. Not all decedents need to open a probate estate or have a court appointed personal rep-

resentative, so the exercise is somewhat burdensome.

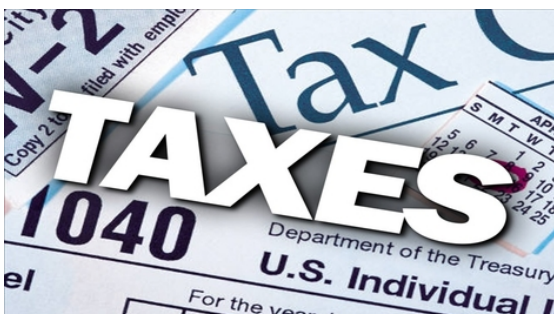
Some powers of attorney permit the attorney-in-fact to obtain the records, however, most documents are of the springing nature, so that the agent can only act on the principal's incapacity. All authority ends at death.

The MO Bar has promulgated a document that purports to grant authority to other persons to receive your health information, even after death. While some medical providers may not accept it, the form can be filled out and signed by you, without notarization. The authorization might be of benefit to your family when they need to access your medical records for treatment or legal matters.

It is suggested you check your Powers of Attorney to see that your attorney-in-fact does indeed have access to your health information.



HIPPA has made it much more difficult to obtain medical records.



Estate and Other Tax Numbers for 2017

Estate tax exclusion: \$ 5,490,000
Gift tax exclusion: \$ 14,000
Capital gains rates: 0% in 10 or 15% tax bracket
15% (in 25% tax bracket)
20% (in 39.6% tax bracket)
Investment tax: 3.8% for high income taxpayers

Final numbers may be revised by the Trump tax proposals.

MO Supreme Court's Surprise Ruling

If you have a life insurance policy, you probably realize that the proceeds will go directly to the named beneficiary.

However, in a MO Supreme Court case, Jerry Bean borrowed \$120,000 from Ernest Hazel. Jerry purchased a life insurance policy as security in the event of his death, with coverage for the amount of the loan.

Jerry died and at the time of his death, the balance owed on the loan was only \$79,795. The beneficiary designation had never been changed and Ernest argued that the entire proceeds were his. The trial court agreed

with Ernest and said he did not have to make restitution of the \$40,000 excess to Jerry's estate.

Jerry's estate appealed, saying Ernest was entitled to no more than the amount due on the loan. The Appeals Court reversed the trial court, requiring reimbursement to Jerry's estate.

Courts rarely disturb beneficiary designations on insurance policies. As a result, you should review your life insurance, and all other, beneficiary designations periodically to see that they still reflect your wishes.



Although the Court came to the just answer, care in making beneficiary designations is always advised.

IRS May Question S-Corporations Dividends

About 70% of all US corporations are owned by a single shareholder. Tax advisers sometimes suggest electing S-corporation status to reduce social security taxes. They owner is advised to pay himself a salary, which is subject to self-employment taxes, and distribute the balance as dividends, which are not subject to self-employment.

A dividend is a payment from earnings which is a return on investments. If the owner is the sole shareholder, it becomes more difficult to argue that the payment is a return on your investment and not salary.

The IRS will challenge dividend pay-

ments and recharacterize them as salary when the circumstances fail to support their validity.

The IRS routinely challenges companies owned by a single individual which pay all, or nearly all, earnings as dividends and none or little as salary.

Such abuses are easy targets for the IRS and often result in assessment of taxes and negligence penalties up to 100% of the tax owed.

Dividend payments should be economically reasonable and supportable. Properly done, however, you may reduce your self-employment taxes.



The IRS will target dividend distribution abuses and assess penalties.

REAL ID Act to Begin Next Year

Missouri is one of only two states (MN is the other) not in compliance with the federal REAL ID Act, which sets standards for state issued identity cards. MO Driver's Licenses do not meet the standards and thus will not be sufficient identification to board a plane beginning January 22, 2018.

There are a number of other documents you can present as proper

identification to board an aircraft. Among them are the following:

- US passport
- US passport card
- DHS trusted traveler card
- US Military ID
- Permanent resident card
- Foreign government issued passport.



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