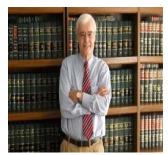
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Michael J. Howell

Margaret R. Howell

June, 2012 Client Newsletter

Avvo Awards Michael J. Howell with Superb Rating in Estate Planning and Probate Law

Avvo, an independent lawyer rating agency, recently gave Michael J. Howell their Superb Rating in both estate planning and probate law. The rating is based upon his training and experience in estate planning and probate law, as well as other factors. He is also able to display the Avvo Logo on our website: www.HiltonHeadEstatePlanning.com with his Superb rating.

You can view Michael's rating information on the Avvo website at:

www.avvo.com/attorneys/29928-southcarolina-michael-howell-3417276.html.

According to the Avvo website, the rating is calculated using a mathematical model that considers the information shown in a lawyer's profile, including a lawyer's years in practice, disciplinary history, professional achievements, and industry

recognition - all factors that, in their opinion, is relevant to assessing a lawyer's qualifications.

Margaret R. Howell Participates in the Wills for Heroes Program to Benefit Local First Responders

The Young Lawyers Division of our Hilton Head Island Bar Association recently held a program in Beaufort for our Southern Beaufort County Deputy Sheriffs. The program called "Wills for Heroes" provides legal assistance with Wills for first responders, which includes law enforcement and fire and rescue personnel.

The program began with the South Carolina Bar in Columbia and is now a statewide program helping first responders from throughout the state with Wills at no cost.

The Beaufort program assisted 27 deputy sheriffs with free legal assistance. This is the second such program that Margaret has participated in since joining the firm.

Real Estate IRAs and LLCs

During these harsh economic times, many people are turning to alternate investments for their retirement funds. For example, real estate has become an attractive investment for some. However, most IRA custodians will not let you invest in real estate.

Most traditional custodians will only allow you to invest in stocks and bonds. Many either do not know or do not acknowledge that you can invest your IRA in real estate or other alternative investments.

However, if the rules are carefully followed, it is possible for you to invest IRA funds in real estate. There are some custodians, but very few, who will purchase real estate directly from your IRA account. There are also others who will allow you to set up an entity such as a special IRA LLC and allow you to manage the property as the manager of the LLC.

Such IRAs, especially those utilizing LLCs, are not for the inexperienced or uninformed. First, care must

Disclaimer

This newsletter is intended for the exclusive use of our clients who live in South Carolina. You have received this newsletter because, according to our file, we did estate planning work for you in the past and your primary residence is in South Carolina. If this is not correct, or we have mailed this newsletter to the wrong person, or if you have hired another attorney to take care of your estate planning work, or if you have moved out of state, or if you would otherwise like to be removed from our client mailing list, please let us know so that we can take you off of our client mailing list and/or move you to the proper list.

be taken due to what are called the "prohibited transactions rules" by the IRS. Many people who have such IRAs and do not seek competent legal advice will run afoul of these rules. This is especially so with respect to Real Estate IRAs using LLCs.

The consequences of a prohibited transaction can be disqualification of your IRA and immediate taxation and penalties. Often the problem is not even known or discovered until years after the fact when the problem can not be solved.

Second, you should not invest in a Real Estate IRA unless you are an experienced real estate investor or have a trusted advisor who is experienced. Many people are not experienced in investing, much less real estate investing. For this reason, many prefer the more traditional IRA with stocks, bonds and other securities, whereby their investment advisor assists with investments and often makes all the investment decisions.

A Real Estate IRA may be attractive due to the decline in the real estate market. Many believe that we are at historic lows. If this is true, then the Real Estate IRA may offer good long term appreciation. Also, if rental real estate is involved, then the rents after expenses may also offer a good return and cash flow for your IRA. It should be kept in mind that property management, itself, is not with without risks.

Although there are significant risks and precautions that need to be taken into account, Real Estate IRAs can be an attractive investment opportunity in lieu of the stock or bond market. However, experience in real estate investing and good legal advice are a necessity.

Significant Probate Code Revisions Working Their Way Through the South Carolina Legislature

Significant changes to the South Carolina Probate Code are working their way through the South Carolina legislature. Although the law was tabled and will come up next year, it is reasonably certain to pass, with possibly some changes. A summary from the South Carolina Senate can be seen on the Internet at:

www.scbar.org/LinkClick.aspx?fileticket=A2yCh xoZ-w8%3d&tabid=116.

Once the law is enacted, it may have a significant impact on how we handle a number of situations in planning and in the postmortem administration of estates and trusts.

Once we know what the final law is, we will update our website at www.HiltonHeadEstate Planning .com.

Important Information Concerning the Funding of Your Trust

For all of our clients, we offer a free, durable estate planning binder with an index and tabs for copies of all of your important estate planning documents and related back-up information. We will also provide you with a free three-hole punch, if you do not already have one. This is especially helpful for clients for whom we have prepared Revocable Trust Agreements.

If you already have the binder, then this is a reminder to keep it up-to-date as outlined herein. If you have misplaced or lost your binder, we will be happy to provide you with another one.

The binder helps document whether or not your trust has been fully funded and contains a detailed index for organizing your information. We recommend that in addition to photocopies of your estate planning documents, you place copies of the information in the binder, for each of your assets, to document whether or not the asset is properly titled in the name of your Trustee.

You start with a copy of an asset summary sheet. You should fill it out and then place it in the binder. The information should be updated yearly. You can then place a copy of your estate planning documents, your most recent bank, stock, brokerage, and other account statements in the binder, along with a copy of the deed to your house, title to your automobile(s), copies of life insurance policies, and annuities with the latest beneficiary designations, as well as pension, IRA and 401(k) information, just to name a few.

You also need to include information on your homeowner's and automobile liability insurance policies showing that the Trustee is the insured. Normally you are named, individually, as an additional named insured; although, some companies reverse this or name you as jointly insured, i.e. individually and as Trustee. The procedure varies from company to company.

Note that only copies of documents and not originals should be placed in the binder. We recommend that you update all information no less often than yearly. The binder should also refer to the location of the original estate planning documents.

We also strongly recommend that you obtain written confirmation every 2-3 years from your insurance companies, stock brokers, banks, and other companies with whom you have life insurance policies, annuities, IRAs, Roth IRAs, 401(k)s, or other pension type assets, as to whom the primary and contingent beneficiaries are. We have found that who our clients believe the beneficiaries to be is often wrong when written confirmation is obtained.

Unfortunately, this often occurs post mortem, when there is no opportunity to fix the problem. There are a variety of reasons why this can happen and you should not run the risk. Again, you should obtain written confirmation every 2-3 years unless it is automatically provided to you on a periodic basis such as yearly. You should never rely on beneficiary information that is any older than 2-3 years.

We have found that clients who keep these estate planning binders up-to-date, at least yearly, have planning conferences quicker estate and updates. Also, after your death or disability, the settlement of your trust and/or estate should go more smoothly because your Personal Representative and/or Trustee has most of the information that is needed to get started right at their finger tips. They can then provide any relevant information to us or any law firm that they choose to help them. This can also save you, your estate, and your trust, significant legal fees by reducing the time that it takes for us or any law firm to do any needed work.

We have also found that our clients' families appreciate having the binder as a road map to the administration of the estate and/or the settlement of the trust. Similar considerations apply if you ever become disabled and someone needs to take over the management of your assets.

If you do not already have one of the binders, please call and let us know and we will make arrangements so that you can pick one up from our office. We do not mail them, due to the postage and handling costs.

<u>There is no obligation associated with receiving the binder.</u> However, if desired, you can also schedule an appointment to bring in your documentation and we will go over the binder and the information with you to make sure that it is up-to-date and you understand what needs to go into it.

The binder is free and if you want to schedule a trust funding conference for us to review the information, you simply need to fill out the asset summary sheet and place as much back-up documentation as you have, or can reasonably find, into the binder and drop it off at our office no less than 24 hours prior to the conference so that we can review it. *Please keep in mind that you can only drop off photocopies*. Our staff is not allowed to accept any *original* documents.

We have found that the conference is much better if we review the information prior to the conference. Otherwise, the conference time will not be nearly as productive and will take more time. The Trust funding pre-conference review, the conference, post conference wrap and any additional work that you request is at our normal hourly rates.

If you want one of the free binders, or if you want to meet for a Trust funding conference, please let us know. Again, there is no obligation to set up a Trust funding meeting in order to receive the free binder. It is our gift to all of our clients.

Also, please keep in mind that a Trust funding review is not an estate planning review. These are separate and we recommend that you have one every 2-3 years. If you have not updated your planning recently, you may receive a reminder in the near future.

Is an Estate Planning Update Needed?

It is important for you to review your own personal estate planning situation every few years. It is also important for you to keep up with current events such as changes in tax laws. Any major change is broadcast over the network news, cable news, and the Internet in exhaustive detail. Such news by itself is a reason to come in for an update.

The next 12 months may be the most important year since the Bush Tax Cuts were first enacted in 2001. Prior to the enactment of the tax cuts, the Estate Tax Exemption was \$675,000. In 2009, the exemption had increased to \$3,500,000 under the Bush Tax Cuts.

Beginning January 1, 2010, the estate tax was repealed, but then reinstated on December 17, 2010, with a \$5,000,000 exemption, until 2013 when the estate tax exemption may go back to \$1,000,000, if Congress does not take any further action. Some commentators believe that Congress will keep the \$5,000,000 exemption, which is doubled for married couples and is \$10,000,000. However, there is no guarantee as to what Congress will actually do. Keep in mind that if the House, the Senate, and the President can not come to an agreement, the exemption will be \$1,000,000 beginning January 1, 2013.

It is highly recommended that you have your documents and planning reviewed no less than every 2-3 years. It is important not to go beyond 3-5 years for a review or update of your estate planning documents or your estate plan. If you go beyond 5-7 years, then you are running a significant risk that your planning is out-of-date and will not accomplish your objectives. The longer you wait, the more likely it is that your documents and planning will be out-of-date at the time they are needed the most.

If you would like to review and possibly update your estate plan, please call our office to schedule a mutually convenient time to meet. We will send you an estate planning package and confirm the date and time of your appointment. Our current fee schedule will also be enclosed in the package. If you prefer, you may also go to our website at www.Hilton HeadEstatePlanning.com and go to the tab labeled "Returning Clients". Under this tab, you will find packages of information for both married and single clients in PDF format that you can download, fill out, and return prior to the conference.

During the estate planning conference, we will review your current documents, your assets, and other relevant information, to determine if any changes are needed. We will also answer any questions that you may have concerning your documents and your planning. Also, at the conference, we can discuss any potential changes that you want to have made concerning your estate planning.

Again, it is highly recommended that you have your documents and planning reviewed if you have not done so in the past 2-3 years. If you do not wish to meet at this time, we understand. We are here to be of service, if and when you need us.

You should always check our website for special offers. There are often special offers for new clients and also special offers for returning clients, such as free conferences for certain types of work. If you ever call in for an appointment, based upon a website special offer, you should let us know so that we can make the appropriate adjustment to your bill.

If you have any questions or would like to meet, please let us know. We look forward to being of service.

Old Sayings for a Modern America

"You can fool some of the people all of the time, and all of the people some of the time, but you can not fool all of the people all of the time."

--Abraham Lincoln

"A penny saved is a penny earned."

-- A Benjamin Franklin misquote

"Kill all the Lawyers."

-- Shakespeare Taken Out of Context

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