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Corporate Estate Planning Personal Injury Law

## Are You Due for an Estate Planning Tune Up?

We all need to tune up our cars from time to time, but did you know your estate plan can also use a tune up? You may have established an estate plan, but as circumstances change, your estate plan should be tuned up to conform with your present wishes. Generally, an estate plan should be reviewed at least every five years. The following events signal that it may be time for a tune up:

- *Change in Net Worth* . With the stock market decline, many estates have decreased in value. A will or trust provision giving a specific sum of money to a person may now have unintended results. If, for example, the estate is

\$75,000, and \$50,000 is left to one person, there will only be \$25,000 for all other beneficiaries.

- *Divorce* . Many provisions for a former spouse are automatically repealed by the Missouri statutes, but not all. You should be especially careful to change beneficiary designations on life insurance policies and annuities which list your former spouse.

- *Death of a beneficiary* . On the death of a beneficiary, you should review what happens to that person 's share. Perhaps it passes to their descendants or merely lapses. In either case, a review of the instrument is prudent.

- *Birth of a child* . You may wish to consider setting up a trust in your will or revocable trust for the minor child. The trust can distribute funds to the child during their minority.

- *Desire to Change Beneficiaries* . The people you desire to benefit from your estate may change. Perhaps you wish to make a gift to a helpful neighbor, or to your church. A review of beneficiaries will insure your desires for disposition of the assets are met.

- *Desire to Change PR or Trustees* . You may not remember to change the personal representative when the one named in your will moves to another state. Or your trustee may

have passed away, or in the case of an institutional trustee, had a change in



1955 Mercedes 300SL Gullwing  
(in case you were wondering)

policy or dissolved their trust powers.

- *Other Documents* . Be sure to look at the people named under your Health Care Directive and financial Power of Attorney. It is better to name someone that lives fairly close to your present place of residence.

## " Clients Only " Services in Real Estate

Many clients of the firm know that we have offered real estate closing services since 1998. As an additional service, we

are performing closings through the law firm, including purchases and sales of real estate, refinances and §1031 tax-free

exchanges. This service can save you time and money, and is available only to clients and friends of the firm. If we can assist



in a transaction, please contact us for an easy and hassle-free closing.



A new law has been passed that for any renegotiated mortgage or for a foreclosure, any forgiven debt will not be taxable. The law applies to transactions that take place from January 1, 2007 to December 31, 2009. This law applies only to recourse loans—there is no forgiven debt for nonrecourse loans, because the lender must settle for what the property sells for, and cannot pursue the borrower for any deficiency.

## Mortgage Debt Forgiveness Act of 2007

However, any forgiven debt, also known as cancellation of debt income, will reduce the homeowner's basis in the property, which will add to any gain by the amount that is forgiven, when the home is sold. The borrower will still have to pay taxes on this capital gain, but it will be at the lower capital gains rate of 5% or 15%, depending on the borrower's income rather than the usually higher ordinary tax rate on ordinary income that applied to cancelled debt.

There are some limitations to the tax forgiveness. There is a \$2 million dollar limit of cancellation of debt income that can be forgiven, and the law applies only to a principal residence—not to vacation homes or investment properties. The exclusion also does not apply if the homeowner refinanced the mortgage, but the money was not used to improve the property.

## Watch for Us in the Branson Daily News

The Branson Daily News is now publishing a legal article from the firm the last Saturday of each month. The growth of the firm's client base in the area has made it important to promote communications with existing clients and to reach out to new clients in the lakes area of Southwest Missouri.

Each month the article will cover a different area of the law. The articles are designed to be of immediate assistance and

utility to area readers.

We have been in contact with other newspapers in the area about publishing general interest legal articles. Copies of the articles will be available on our new and expanded website, which you may download at [www.atonlaw.com](http://www.atonlaw.com).

We have also had requests from regional banks and trust companies to speak on estate planning issues. Upcoming seminar dates will be posted on our website.



Clients are always welcome to email brief questions or suggestions for future articles to [steve@atonlaw.com](mailto:steve@atonlaw.com). If a question cannot be adequately answered by email, we will call you to schedule an appointment. Your input is always welcome. Please do not hesitate to let us know what information or services would be helpful to you, especially in this time of financial uncertainty.

## Info. In a New York Minute



**Tax Report:** A Special 2008 Summary of Federal Tax Law Changes, as well as past editions of our newsletters, are now available online at [www.atonlaw.com](http://www.atonlaw.com). The tax summary alerts you to major revisions for filing 2008 taxes. Be sure to check out the changes before tax time.

**Duration of Recessions:** From 1926 to 2009, the US has endured fourteen recessions. The average length of the recessions has been 13 months. The present recession began about 14 months ago, but most economists believe this recession will be longer than average.

### 5 Ways to Save Money Now:

1. Take your lunch to work;
  2. Rent movies rather than going out;
  3. Vacation near home this year;
  4. Combine trips to save on gas; and
  5. Make a budget and stick to it!
- This recession *will* eventually end!