



Summer News

New Guidelines for Roth IRA Conversions

This year, taxpayers may convert a traditional IRA, 401(k), 403(b), Roth 401(k) or Roth 403(b) to a Roth IRA, without regard to the income limitations on Roth IRAs. This may be particularly beneficial for many high-income individuals, and should be explored by any clients who have been subject to the income restrictions for

contributions to a Roth IRA.

You will not be subject to tax on the non-deductible IRA contributions that are converted; however, you will pay tax on the converted earnings from those contributions. You will be taxed on any other amounts you convert.

You will recognize the taxable amounts one-half in 2011 and one-half in 2012, unless you elect to have the conversion taxed in the year 2010.

If you make such a conversion, you will be subject to a 10% excise tax if you withdraw funds within five years from the first day of the tax year in which the conversion is made.

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Time To Review Estate Planning

As we approach the second half of 2010, there is still much uncertainty over what the federal estate tax laws will be for 2010 and beyond.

Currently, the federal estate tax applicable exclusion amount will drop to \$1,000,000 in 2011.

Just as it is good to replace the batteries in your smoke detectors on a

regular basis, it is good to review your estate plans regularly as well.

This fall and winter will be a particularly good time to do such a review as there is guaranteed to be change forthcoming.

For those who have established a trust, please remember that just signing the trust does not help you avoid probate.

You still need to title the assets in the names of the trustees or set up a Payable on Death (POD), Transfer of Death (TOD) or other beneficiary designation transferring the assets to the trust at your death.

It is good to review all of your titles to assets to see if your objectives are accomplished.

Changes at the Firm

At Barrett, Easterday, Cunningham & Eselgroth LLP, top-notch service is our main goal. In order to serve you better, we have made some changes and are excited to announce the following:



Trish Bradley

Reception Area Gets New Look

There is a new face greeting our clients and a new voice answering our phones.

In February, we welcomed our new receptionist, Trish Bradley. Prior to moving to Ohio in 2006, Trish lived in Springfield, Pennsylvania, a suburb of Philadelphia.

She was employed by Mercy Health System in southeastern Pennsylvania, working in human resources, where she handled recruitment, retention, and employee relations. Her background also includes publishing and marketing, along with volunteer work as a tutor for the literacy council.

For those of you used to speaking with Rhonda about your case or your invoice, she is still here and available to help you! We have just re-assigned the receptionist duties to Trish so that Rhonda has more time to devote to her paralegal duties, in turn helping us to serve you, the client, more efficiently.

Troy Callicoat Elected Partner

We are pleased to announce that Troy A. Callicoat has been elected a partner in our firm effective April 17, 2010.

Joining the firm in 2004 as an associate lawyer, Troy has distinguished himself in representing the firm's clients in civil litigation in both federal and state courts, as well as counseling clients on agricultural, environmental, and business transactional matters.

As an agribusiness and applied economics major at The Ohio State University, he graduated in 2000 with a Bachelor of Science Degree in Agriculture. From OSU, he moved on to Capital University Law School, where he graduated magna cum laude in 2003.

Troy is a member of the Columbus Bar Association, the Federal Bar Association, and the Agricultural Law Committee of the Ohio State Bar Association.



Troy Callicoat

BECE Welcomes Summer Clerk

Joining us this spring and summer is Amanda Stacy. Amanda will be a third year law student at Ohio Northern University College of Law in the fall of 2010.

Growing up on a farm in southeastern Ohio has enabled her to gain a good understanding of the agricultural com-

munity.

Amanda's agricultural background, stemming from her family's farm, includes strawberries, sweet corn, other produce, and honeybees. She has a Master's Degree in General Psychology from Marietta College and is Vice President of the Envi-

ronmental Law Society.

Her experience includes working at the Hancock County Common Pleas Court and reviewing handbooks and policies for the Ohio Farm Bureau. Amanda was a member of the Washington County Junior Fair Board.



Amanda Stacy

U.S. EPA Issues New Lead Paint Rules for Contractors

Effective April 22, 2010, new EPA lead paint rules will affect property managers and contractors involved in renovation, repair, painting and window-replacement activities, and may result in increased costs for homeowners.

The rule applies to homes and child-occupied facilities built before 1978. The rule does not apply to housing built in 1978 or after, nor does it apply to minor repair and maintenance

“When the new rules apply, anyone paid to perform work that disturbs paint (rental property owners or managers, contractors, painters, plumbers, carpenters, electricians) will be subject to a litany of new requirements”

activities (window replacement is not considered minor repair) that disturb 6 square feet or less of paint per room inside, or 20 square feet or less on the exterior of a home or building.

In certain cases where the renovation will occur in the owner’s residence,

no child under age 6 resides there, no woman who is pregnant resides there, and the housing is not a child-occupied facility, the owner may waive the training, certification and work practice requirements by signing a written statement.

When the new rules apply, anyone paid to perform work that disturbs paint (rental property owners or managers, contractors, painters, plumbers, carpenters, electricians, etc) will be

subject to a litany of new requirements, including:

- Distribute EPA lead pamphlet to owner and occupants prior to renovation;
 - Obtain confirmation of receipt of lead pamphlet from owner or occupants;
 - Post informational signs at the worksite;
 - The contractor or firm doing the work must be certified or must have a certified person on site;
 - Renovators must be trained;
 - Lead-safe work practices must be followed, such as containment of dust and debris (seal the work area in plastic taped-down sheeting, etc), cleaning of work site each day (HEPA filter vacuum, disposable clothing, tools, test site for cleanliness, etc), containment of waste transported from site (dispose of all contaminants in specially sealed heavy garbage bags);
- Recordkeeping and 3-year record retention requirements;



The penalties for violation can be severe (fines of up to \$37,500 per day). More information can be found at www.epa.gov and click on lead.

Proposed Changes to Animals Running at Large Statute

Changes to Ohio's Animals Running at Large Law (House Bill 503) have been introduced in the Ohio House of Representatives.

The existing law is not applied uniformly, and some jurisdictions have interpreted the statute to permit criminal charges or civil liability under a "strict liability" standard where farm animals escaped from their enclosure. Under strict liability, it does not matter how or why the animals



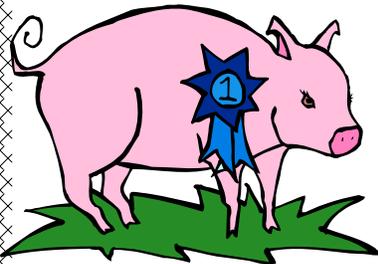
escaped. If the animals are out, the owner or keeper is guilty, regardless of the cause. The proposed legislation will clarify the standard of care required by the owner or keeper, and make it clear that "strict liability" does

not apply. The legislation was proposed by the Legislative Subcommittee of the Ohio State Bar Association Ag Law Committee. Jeff Easterday is the current Chairman of the Legislative Subcommittee.

"The proposed legislation will clarify the standard of care required by the owner or keeper and make it clear that *strict liability* does not apply."

It's Fair Time...

Please send us your photos and let us know of your 4-H and FFA Projects and involvement with your local county and state fairs. We may make a surprise visit to support your group's project!



The information provided in this newsletter is for educational purposes only and should not be used as a substitute for professional advice. There are often many exceptions to the general rules. Before applying any of this information to a specific legal problem, readers are urged to seek advice from an attorney.

Agricultural Employees and Exceptions to Overtime Rules

The Fair Labor Standards Act (FLSA) overtime provisions do not always apply to agricultural employees.

Situations where minimum wage, equal pay and overtime requirements are not subject to the FLSA *may* include the following situations:

- *Less than 500 person days of labor were used in the preceding year
- *The main responsibility of the employee is livestock range production.
- *The employee is part of employer's immediate family
- *The employee works as a hand harvester, following specific guidelines.

It is best to consult with us if you are unsure about a certain situation.



Happy Summer

Tax Workshops Offered For Small Businesses

The Ohio Department of Taxation has issued a schedule of tax workshops designed for small businesses that will be held at several locations in Ohio in 2010. The workshops are free and are sponsored by the Internal Revenue Service and the Ohio Department of Taxation. They provide a general overview of business taxes and taxpayer responsibilities.

Most workshops are being offered in cooperation with the Ohio Department of Development's Small Business Development Centers.

Additional information, the workshop schedule, and points of contact for registration can be found at the following link:

http://tax.ohio.gov/channels/other/small_business_workshops_10.stm



Take Advantage of 2010 Charitable Gift Benefits

The Tax Foundation, a non-partisan, nonprofit organization that monitors federal fiscal policy, published a news release that suggested high-income taxpayers should make major charitable gifts in 2010.

“2010 is an excellent year for large charitable gifts because certain deduction limitations are not applicable for this year.”

According to the Tax Foundation, 2010 is an excellent year for large charitable gifts because certain deduction limitations are not applicable for this year. They are likely to be restored in 2011.

One limitation is the personal exemption phase-out (“PEP”) for higher-income individuals. The second provision is named after former Congressman Donald Pease (D-OH). It creates a 3% floor on itemized deductions for high-income taxpayers (“Pease”). A high-income taxpayer could lose up to

80% of his or her itemized deductions due to that floor.

Neither the PEP nor the Pease limits apply to 2010. Therefore, it is a very good year to make large charitable gifts because the deductions will qualify in full.

Under the proposed budgets by President Obama, the Pease itemized floor will apply in 2011 for married couples with income over \$254,550 and single persons with incomes over \$203,650.

An additional charitable contribution benefit is currently in the extenders bill, which is being debated by Congress. For the last few years, taxpayers could make gifts to charity directly from an IRA. These transfers count towards the required annual minimum distributions and are not includible for income tax purposes. It is expected (not guaranteed) that an extension of this popular provision will be enacted by Congress for 2010.

FIRM DIRECTORY

We value your call, so please feel free to contact each of us on our direct lines at the following numbers. If we are not available when you call, your call will roll over to either Trish (our receptionist), or our voicemail.

Main Number	(614)210-1840	Russell Cunningham	(614)210-1844
Fax Number	(614)210-1841	Carolyn Eselgroth	(614)210-1845
David Barrett	(614)210-1842	Troy Callicoat	(614)210-1847
Jeff Easterday	(614)210-1843	Frank Fullin	(614)210-1848

If you need to speak to Rhonda, our paralegal and office manager, you can call the main line and the receptionist will transfer your call.

www.ohiocounsel.com

Did you know...?

..In Ohio, the general rule is that the **purchaser of farmland at a judicial sale** (*e.g.*, foreclosure) is purchasing the land and not any annual growing crops located on the land. This rule has been extended to a current crop of grapes, even though the grapevines are not planted annually.

.....The 2010 **annual exclusion for gifts** under the federal tax law is \$13,000 per person. Spouses can combine their annual exclusions and make a joint gift of up to \$26,000 to a particular beneficiary. There is no limit on the number of beneficiaries that can benefit from gifting using the gift tax annual exclusion. If gifts fall within the gift tax annual exclusion amount, then the donor (s) do not need to file federal gift tax returns for the gifts, no gift tax is owed and the gifts do not count against the lifetime maximum gift exemption amount. Donors should always be aware that gifts of property other than cash do not receive stepped-up basis treatment. Thus, anyone considering making gifts of property should consider seeking professional advice before embarking on a gifting program that involves non-cash gifts.

..... In Ohio, townships and counties do not have the authority to **regulate agricultural uses of real property** on parcels of land greater than five (5) acres.

.....**The term "agriculture"** is defined broadly by statute for the purposes of Ohio zoning law and “includes farming; ranching; aquaculture; apiculture; horticulture; viticulture; animal husbandry, including, but not limited to, the care and raising of livestock, equine, and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production; the pro-

duction of field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, or mushrooms; timber; pasturage; any combination of the foregoing; the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production.”

.....Both Ohio and federal law recognize a **strong presumption in favor of enforcing arbitration agreements**. Doubts about the applicability of an arbitration provision generally are resolved in favor of coverage. Arbitration decisions are enforceable, but not all arbitration agreements or procedures are equal. So, contact us if you have questions about arbitration and/or to learn how to include arbitration provisions in your agreements.

.....The EPA has issued **rules for creating or modifying spill prevention plans** for businesses that 1) store, transfer, use or consume oil or oil products, such as diesel fuel, gasoline, lube oil, hydraulic oil, crop oil, vegetable oil or animal fat and stores, 2) store more than 1,320 US gallons in above-ground containers or more than 42,000 US gallons in buried containers and 3) could be expected reasonably to discharge oil into waters of the US. For more information, see <http://www.epa.gov/emergencies/content/spcc/index.htm> . Farms must amend or prepare their plan by November 10, 2010.



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Have a Safe and Enjoyable Summer!

Our law firm offers diverse legal services for both individuals and business. We place special emphasis on serving the needs of agricultural producers and agribusiness clients. Our areas of expertise include agricultural legal issues, business and estate planning, agricultural finance, commodities law, commercial transactions, environmental law, estate/probate administration, federal farm program issues, government regulation, land use planning and valuation, real estate, like-kind exchanges, income and estate tax law, litigation and dispute resolution.

We are located in Dublin, Ohio, a northwest suburb of Columbus.

Please visit our website at:

<http://www.ohiocounsel.com>
