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Client Newsletter

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Illinois Transfer on Death Instrument Act

On August 25, 2011, the Governor signed into law the Illinois Residential Real Property Transfer on Death Instrument Act ("Act"). The Act provides a new method for transferring residential real estate upon death without probate, using designated beneficiaries. It's known as a Transfer on Death Instrument ("TODI"). The TODI is non-testamentary, meaning it's different than a will, but has characteristics of both a will and deed.

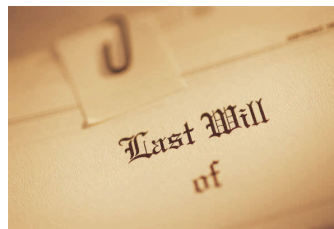
An owner of residential real estate may execute a TODI, which allows the property to pass to a designated beneficiary upon the death of the owner. The TODI must contain all of the elements of a regular deed, but also requires two witnesses and a notary, and must be recorded

As a follow up to our last newsletter, we are reminding people that now is the time to have your estate plan reviewed.

Typically, we recommend that clients have their estate plans reviewed upon the earliest occurrence of the following events: (1) after certain milestones in their life, (2) when a major life event occurs, (3) when their wishes change, or (4) when there are changes in the law.

Over the last year, you have probably heard a lot about

in the county where the property is located. Upon the owner's death, the property will transfer to the designated beneficiary of the last recorded TODI – as long as the beneficiary comes forward and appropriately claims the property.



The designated beneficiary has no rights or interest in the property during the owner's lifetime. In fact, the owner is free to sell, lease, mortgage or otherwise deed the property during his or her lifetime. The TODI is also revoca-

changes in the estate planning laws. Most significant among these are major revisions to both the federal and the Illinois estate tax laws, and new Illinois statutory form powers of attorney for both health care and property matters.

These revisions in the law may dictate some changes to your estate plan, even if no changes in your individual circumstances, financial or otherwise, have occurred since your estate plan was last reviewed. Failure to make these

ble during the owner's lifetime, but a revocation must be recorded.

On the death of the owner, the beneficiary of the TODI must execute and record a Notice of Death Affidavit and a Notice of Acceptance.

After recording, ownership of the property becomes retroactively effective on the date of the owner's death. If no beneficiary comes forward within 30 days of the owner's death, the personal representative of the owner's estate may take possession of the property and preserve it until a beneficiary claims the property. The TODI will become void if the beneficiary fails to record these two documents within two years of the owner's death.

changes could, in turn, be very expensive in terms of the timing and amount of taxes due upon your death, or result in other undesirable consequences.

Please feel free to call us to arrange a time to review your estate plan.



Illinois Use Tax Amnesty

When you go to the store and make a purchase, the retailer charges Illinois sales tax. But when you make a purchase online, from a catalogue or magazine, or from a TV advertisement, you may be purchasing from an individual or business outside Illinois - and they may not charge Illinois state sales tax.

Illinois law requires that you pay sales tax at the Illinois rate when you purchase an item from another state or country to use in Illinois. It is called a "use tax." You owe Illinois use tax when the person or business from which you made the purchase did not charge Illinois sales tax.

If you, like so many others, haven't volunteered this information to the Illinois Department of Revenue, there is still hope. Use Tax Amnesty provides the opportunity for taxpayers to pay the use tax, yet avoid penalty and interest for non-payment for purchases made from July 1, 2004 through December 31, 2010. To

avoid penalty and interest for unpaid use tax during this period, **you must file and pay your use tax no later than October 15, 2011.**

In order to claim Amnesty, you must file a form for each year that you have unpaid use tax back to July 1, 2004, and write "AMNESTY" in red on the top of each form. Which form you use depends on what you have purchased. Form RC-44 is used for cigarettes; Form RUT-25 for motor vehicles, aircraft, watercraft, or trailers; Form ST-1 for purchases made by servicepersons or registered retailers; and Form ST-44 for general merchandise, food, drugs, and medical appliances.

Most online and catalogue shoppers are subject to Form ST-44. To complete the form, you must calculate your amount of purchases. If you know the amount of your purchases, simply follow the instructions on the form. If you do not know the amount of your purchases, or only remember some of your purchases, then use the chart

found at <http://tax.illinois.gov> to calculate an estimate.

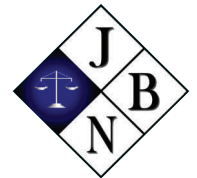
Be mindful that the Use Tax Amnesty only applies to individuals, not businesses. Certain individuals who are party to an investigation, lawsuit, or audit for nonpayment, fraud, or delinquency may be excluded from the amnesty program.

Of course, if you need assistance in complying, please feel free to call us.



DISCLAIMER: The law frequently changes. Nothing in this newsletter should be relied upon as legal advice. Please consult our office for legal advice tailored to your specific factual situation.

- **JBN now offers a Business Legal E-Newsletter for our small and medium-sized business clients. It is filled with general topics of interest to businesses. To join, e-mail Brian Johnson at bjohnson@peorialawyers.com.**



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