



Samuel, Sayward & Baler LLC

# Smart Counsel... FOR LIFE.

## Partners' Letter

*"Wisdom with an inheritance is good, but wisdom without an inheritance is better than an inheritance without wisdom."*

- Anne Bradstreet,  
America's first published poet

Dear Clients and Friends:

We hope that you and yours enjoyed a wonderful holiday season together and that this new year brings you health and happiness.

January is the month that starts a brand new year, filled with hope and expectation, and a new SSB newsletter format! We hope you like it.

It is also the time for personal new beginnings. Many of us make new resolutions for healthier lifestyles, spending more time with family and friends, and getting more out of our life than the year before. According to **Daniel Rossi-Keen** of **The Times**, *"some four in 10 Americans make New Year's res-*



*olutions annually. A survey of such resolution makers found that over half of those individuals reported feeling initially confident that they would be successful in reaching their goals."*

With this in mind, setting realistic goals is important each year, and now is the perfect time to reflect on your estate planning goals and make plans to protect your family and your assets in 2022.

Don't want to venture out in the cold and snow? No problem. We are meeting with clients virtually by Zoom and by telephone. If you are fully vaccinated, you are also welcome to meet with us in our

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**This quarter's Smart Counsel Series,  
*Fraud Prevention In The 21st Century: What You  
Need To Know To Keep Your Information Safe***

Join us for our next Smart Counsel webinar on **Thursday, February 24th** when **Norfolk County District Attorney Michael Morrissey** and **Senior Affairs Coordinator Gayle Bellotti** will share their expertise on fraud prevention, cyber hacking, scams and identity theft. **Attorney Maria Baler** will round out the panel

and will speak to the importance of having updated estate plan documents that permit trusted individuals to assist you if necessary, including the ability to access your digital assets. In addition to hearing from our panel, attendees will have the opportunity to ask questions.

Join us virtually for this presentation on **Thursday, February 24, 2022 from 6:00 pm to 7:30 pm**. Contact Victoria Ung at 781/461-1020 or [ung@ssbllc.com](mailto:ung@ssbllc.com) to reserve a spot for you and a friend. **The program is free but registration is required.**

Partner's Letter continued...

office located in Dedham, MA. If you would like to schedule an appointment to review your estate plan with one of our attorneys, please contact Marcy Kadlec by phone at 781-461-1020 or by email at [kadlec@ssbllc.com](mailto:kadlec@ssbllc.com).

Be sure to read Attorney Sayward's article on the 2022 inflation adjustments for various tax thresholds, for the federal estate and gift tax and Attorney Frank Mulé's informative piece on Irrevocable Long-Term Care Trusts. In addition, SSB answers the question, "Do I have the right Power of Attorney?"

There have been some very exciting things happening at SSB since our last newsletter. Our team is growing, and we've welcomed a beautiful little one to the SSB family – see our What's New feature below. We are thrilled to announce that Attorney Mulé has once again been recognized by the legal community, and don't forget to check out the photos from our holiday "Ugly Sweater" contest and Deb's

delicious southern recipe to keep you warm this winter.

As always, please feel free to reach out to Deb Hayes ([hayes@ssbllc.com](mailto:hayes@ssbllc.com)) with any questions, or ideas for future newsletter articles, or topics for our Smart Counsel Series. If you know someone who would like to receive this quarterly newsletter, please have them email Deb their contact information, and don't forget to forward this to your family and friends.

Happy Winter,

Suzanne R. Sayward  
Maria C. Baler





## Inflation Adjusted Tax Figures for 2022

By Attorney Suzanne Sayward

Each year the federal government adjusts various benchmark numbers to reflect inflation or cost of living increases. Below are some of the 2022 adjustments as reported by the IRS.

- ▶ Estates of decedents who die during 2022 have a federal tax basic exclusion amount of \$12,060,000, up from a total of \$11,700,000 for estates of decedents who died in 2021. This means that individuals who have a taxable estate of less than \$12,060,000 do not need to be concerned about their estates being diminished by federal estate tax. This number is doubled for a married couple.
- ▶ The annual exclusion for gifts increases to \$16,000 for calendar year 2022, up from \$15,000 for calendar year 2021. The annual exclusion is the amount that each person may gift to any other person in a calendar year without affecting the amount of their lifetime basic exclusion (see above). Under the current law, there is no limitation on the number of individuals to whom annual exclusion gifts may be made.
- ▶ The standard deduction for married couples filing jointly for tax year 2022 rises to \$25,900 up \$800 from the prior year. For single taxpayers and married individuals filing separately, the standard deduction rises to \$12,950 for 2022, up \$400, and for heads of households, the standard deduction will be \$19,400 for tax year 2022, up \$600.
- ▶ Marginal Rates - For tax year 2022, the top tax rate remains 37% for individual single taxpayers with incomes greater than \$539,900 (\$647,850 for married couples filing jointly).

The other rates are:

- 35%, for incomes over \$215,950 (\$431,900 for married couples filing jointly);
- 32% for incomes over \$170,050 (\$340,100 for married couples filing jointly);
- 24% for incomes over \$89,075 (\$178,150 for married couples filing jointly);
- 22% for incomes over \$41,775 (\$83,550 for married couples filing jointly);
- 12% for incomes over \$10,275 (\$20,550 for married couples filing jointly).

The lowest rate is 10% for incomes of single individuals with incomes of \$10,275 or less (\$20,550 for married couples filing jointly).

Long-term capital gains tax rates for the 2022 tax year

Filing Status	0% Rate	15% Rate	20% Rate
Single	Up to \$41,675	\$41,676 – \$459,750	Over \$459,750
Married filing jointly	Up to \$83,350	\$83,351 – \$517,200	Over \$517,200
Married filing separately	Up to \$41,675	\$41,676 – \$258,600	Over \$258,600
Head of household	Up to \$55,800	\$55,801 – \$488,500	Over \$488,500

- ▶ For the taxable years beginning in 2022, the dollar limitation for employee salary reductions for contributions to health flexible spending arrangements increases to \$2,850. For cafeteria plans that permit the carryover of unused amounts, the maximum carryover amount is \$570, an increase of \$20 from taxable years beginning in 2021.

► The amount individuals can contribute to their retirement accounts such as 401(k) plans in 2022 has increased to \$20,500, up from \$19,500 for 2021 and 2020. The catch-up contribution limit for employees aged 50 and over who participate in 401(k), 403(b), most 457 plans, and the federal government's Thrift Savings Plan remains unchanged at \$6,500. Therefore, participants in 401(k), 403(b), most 457 plans, and the federal government's Thrift Savings Plan who are 50 and older can contribute up to \$27,000, starting in 2022. The catch-up contribution limit for employees aged 50 and over who participate in SIMPLE plans remains unchanged at \$3,000. ■

## Five Things to Think About When Considering an Irrevocable Long-Term Care Trust

By Attorney Francis R. Mulé



It's no secret that the cost of long-term care is spiraling out of control in this country, and, consequently, it's no wonder that more and more clients are expressing concerns to us about wanting to "protect" their assets from being depleted by the cost of such care. Clients will frequently mention either that they heard on the radio, TV, or the internet that they can accomplish this using an irrevocable trust or that they have a friend, neighbor, or relative who put their assets into an irrevocable trust for this purpose. While irrevocable trusts can absolutely be used to protect assets from being spent on long-term care, they are not a universal "one size fits all" solution, and they are not without drawbacks.

With this in mind, here are five things to think about if you are considering an irrevocable trust to protect assets for long-term care purposes (an "irrevocable long-term care trust"): and thoughts?

**1. You Have to Give Up Control.** Despite what numerous radio, TV, and internet ads would have you believe, you cannot protect your assets from being spent on nursing home care while retaining full control over them. Under federal and state law, assets in an irrevocable long-term care trust created by you (or your spouse) are subject to the "any circumstances" test, meaning that if there are any circumstances under which the assets could be distributed to you or used for your benefit, the assets will not be protected and would need to be spent on your long-term care before you would be eligible to receive public long-term care benefits (part of the Medicaid program, known as MassHealth in Massachusetts). As a result, in order for an irrevocable long-term care trust to function as intended, you cannot have any right to access the assets in the trust once they have been transferred into

it, nor can the trustee (the person in charge of managing the trust's assets) have any ability to distribute the assets directly to you or use them directly for your benefit. This means that, among other things, if your house is transferred into an irrevocable long-term care trust you will not be able to access its equity through a home equity line of credit or a reverse mortgage. Additionally, trust funds could not be used to directly pay for services for you, such as an assisted living facility or home health aides. Finally, while you would retain the ability to remove and replace the trustee, you could not serve as the trustee yourself and, therefore, would not be able to directly manage the assets in the trust.

**2. You Have to Have the "Right" Assets to Fund the Trust.** When it comes to funding an irrevocable long-term care trust, not all assets are created equal. In particular, you cannot transfer tax-qualified retirement accounts (e.g., IRAs, 401(k)s, etc.) into a trust without immediate income tax consequences. This is because such accounts have to be converted into taxable brokerage accounts (or cash) in order to be transferred out

of your individual name, meaning you would be taking a taxable distribution equal to the entire balance of the account. So, if you were to transfer a \$300,000 IRA into the trust, you would have \$300,000 of additional taxable income reportable on your personal income tax return for the year the transfer is made. Additionally, it is not generally a good idea to transfer a home with an outstanding mortgage into an irrevocable trust. This is because if you continue to pay the mortgage with your own non-trust funds, such payments could be considered additional gifts to the trust (since you no longer own the home in your individual name), which could create problems in the event you need to subsequently apply for MassHealth long-term care benefits.

**3. You Have to Wait Five Years Before Applying for Long-Term Care Benefits.** In order to avoid the possibility of people transferring their assets into an irrevocable long-term care trust and then turning around and applying for MassHealth long-term care benefits the next day, state and federal law give MassHealth the authority to review all of your financial transactions for the 60 months (5 years) immediately preceding your application for long-term care benefits. Any and all gifts and other transfers for less than fair market value made during that time, known as the “lookback period,” are considered to be “disqualifying transfers,” which will delay the start of your MassHealth long-term care benefits for a period of time determined by the value of the assets transferred. If significant assets are transferred, this delay can last several months, if not years. Thus, an irrevocable long-term care trust is generally not a good idea unless you are confident that you will not need MassHealth long-term care benefits until after the end of the lookback period and/or you retain sufficient assets in your individual name to pay for your care needs during the lookback period.

**4. You Are Limiting Your Options Going Forward.** A fellow practitioner once told me that he counsels clients that irrevocable long-term care trusts effectively guarantee that they’ll wind up in a nursing home if they need long-term care in the future. While this is a bit of an exaggeration, it is definitely true that an irrevocable long-term care trust severely limits your options going forward. This is because, as of now, MassHealth long-term care benefits are geared primarily towards nursing home care. Although there are some community-based long-term care benefits available, as a general rule these benefits do not cover 24/7 home health aides, nor do they generally cover assisted living facilities. Further, even within the realm of nursing home care, MassHealth long-term care benefits will only cover a semi-private room (meaning you would be sharing a room with someone else). By contrast, maintaining assets in your individual name gives you the ability to tap into those assets (through, e.g., a reverse mortgage or home equity line of credit on your home) to allow you to be cared for in the most comfortable, least restrictive setting possible for as long as possible.

**5. It Might Not Work.** Eligibility for MassHealth long-term care benefits is governed by a complex web of state and federal statutes, regulations and court cases. These rules change frequently, particularly at the state level, and often apply retroactively, meaning that no exception is made for irrevocable long-term care trusts that were created prior to the new rules taking effect. Thus, what is permissible today may not be permissible tomorrow, and an irrevocable long-term care trust created under today’s rules may be in violation of the rules that exist at the time you apply for MassHealth long-term care benefits. Further, MassHealth has a history of aggressively reviewing and challenging applications for long-term benefits that include irrevocable trusts (the existence of an irrevocable trust must be disclosed to MassHealth even if it was created outside of the lookback period), and anecdotally most such applications appear to be denied on the first pass, necessitating a costly and time-consuming appeal.

A properly structured irrevocable long-term care trust can be an appropriate tool to protect assets from being spent on long-term care, but just like a power drill isn’t always the appropriate tool with which to fasten a screw, an irrevocable long-term care trust is not always the appropriate tool for long-term care asset protection. It is important, therefore, to consult with an experienced elder law attorney to determine the best tools to achieve your goals given your specific circumstances. ■

Francis R. Mulé is an associate attorney with the Dedham firm of Samuel, Sayward & Baler LLC which focuses on advising its clients in the areas of estate planning, estate settlement, and elder law matters. He is an active member and the Chair-Elect, of the Massachusetts Bar Association’s Young Lawyers Division. This article is not intended to provide legal advice or create or imply an attorney-client relationship. No information contained herein is a substitute for a personal consultation with an attorney.

## Terms to Know

### Attorney-in-Fact

– The technical legal name for the person appointed to act under a Durable Power of Attorney.

### Fiduciary

– A person with a legal obligation (duty) to act primarily for another person's benefit. Fiduciaries include the Personal Representative (Executor) of an estate, the Trustee of a Trust, and an attorney in-fact acting under a Power of Attorney.

### Grantor/Donor/Settlor

– The creator of a trust.

### Health Care Agent

– The person appointed under a Health Care Proxy to make medical decisions on your behalf if you are unable to do so. The health care agent should consider your health care wishes, moral and religious beliefs, and the advice of medical professionals when making health care decisions for you.

### Irrevocable Trust

– An irrevocable trust is a trust you set up during your lifetime to distribute your assets after your death. Unlike a “living trust” or “revocable trust,” the terms of the trust cannot be changed by you during your lifetime. Additionally, you may have limited to no access to or control of the trust assets and income. Irrevocable trusts can accomplish a variety of goals such as reducing estate taxes, avoiding probate, shielding assets from a Medicaid/MassHealth claim, and providing privacy and creditor protection. Transferring your assets to an irrevocable trust is a big decision and the advantages and disadvantages should be discussed with your estate planning attorney.



## Ask SSB

**Q:** My dad created a Power of Attorney online naming me (his child) as his attorney-in-fact several years ago. Now my dad has dementia and I need to access his bank accounts to pay his bills but the bank won't let me under the Power of Attorney – why?

**A:** There are several reasons why the bank may be reluctant to allow you to access your father's bank accounts as his attorney-in-fact under his Power of Attorney. First, his Power of Attorney may be a so-called “springing Power of Attorney”, which is a type of Power of Attorney that can only be activated for use when a physician confirms in writing that your father is incapacitated and unable to manage his financial affairs on his own. In contrast, a “non-springing Power of Attorney” permits an attorney-in-fact to make financial decisions and access financial accounts at any time, although it is typically utilized during incapacity.

Another reason the bank may not be granting you access is that financial institutions sometimes consider a Power of Attorney “stale” if it is more than a few years old. The older the Power of Attorney, the more likely it is that a new Power of Attorney designating someone else as attorney-in-fact was recently executed (and may

revoke the old Power of Attorney). The financial institution may be concerned about fraud and its liability when relying on a Power of Attorney from several years ago. A good rule of thumb is that a new Power of Attorney should be executed about every five years. This also ensures that the Power of Attorney is up-to-date with regard to recent changes in the law and other provisions.

A third reason the bank may be pushing back against the use of your dad's Power of Attorney is it may lack adequate language authorizing you to take that action, especially if it originated from an online form. Powers of Attorney should be wide-ranging and include express language granting the attorney-in-fact the specific power to be carried out. It also must be executed according to the laws of the appropriate state to be valid. ■

# CONGRATULATIONS TO OUR RISING STARS!

## ***Congratulations Attorney Abigail Poole***

### ***2021 Outstanding Chapter Member of the Year***

At its annual meeting held virtually on December 9, 2021, the Massachusetts Chapter of the National Academy of Elder Law Attorneys (MassNAELA) honored several individuals for their advocacy and their commitment to raising awareness of legal issues affecting seniors. Each year, MassNAELA recognizes chapter members for their commitment of time and energy to the chapter. The award for Outstanding Chapter Member of the Year was presented to SSB Attorney Abigail Poole, for her commitment of time and energy to chapter events and committees.



## ***Congratulations Attorney Frank Mulé***

### ***2022 Massachusetts Excellence in the Law***

Each year at Excellence in the Law, Massachusetts Lawyers Weekly celebrates Up & Coming Lawyers – Massachusetts attorneys who have been members of the bar for 10 years or less, but who have already distinguished themselves – as rising stars of the local legal community. SSB Attorney Frank Mulé was recently recognized as a 2022 Up & Coming Lawyer.



*"I went to this office for estate planning with lots of questions. All my questions were answered! Incredibly knowledgeable and professional attorneys. Support staff is so friendly. Overall an excellent experience and feel so relieved my estate plan is all set."*

- Donna Dominguez



"Mr. Frosty, it's March.  
Time to talk estate planning."

# What's New at SSB

IT'S A  
GIRL!

Paralegal Cait Fantegrossi gave birth to a healthy baby girl in December. Momma and baby are doing great and big sister Ella is a huge help to mom and dad.



## *Meet our new paralegal Carole Porazzo!*

Carole has been with the firm since October and works as a probate paralegal alongside Cait. With more than 30 years of paralegal experience, Carole supports our senior paralegals and attorneys. You can reach Carole at [porazzo@ssbllc.com](mailto:porazzo@ssbllc.com) or (781)461-1020 ext. 224. Outside of work, you can find Carole in the kitchen cooking or baking, outside hiking or curled up with a good book with her cats Cassie and Bobo.

## **SSB: For the Health of It**

Who wants to drink water in the winter? We all relate to a cold glass of water on hot summer day, but did you know that you may need more water in the winter?

**Your body uses more water to breathe.** When the temperatures drop, your body starts to use more fluids to exhale. When you breathe outdoors in the cold, you see your breath. That condensation forms because your breath has more water content than the environment. Because this air is so dry, your body needs to humidify the air you take in, causing you to use more liquids. **Indoor heat is dehydrating.** When it's cold outside, people tend to be indoors more often, and the heated air in buildings is dry. If you don't hydrate, you may experience dry, cracked lips and skin or digestion issues. **You may not feel as thirsty.** While you are not outwardly sweating as much, especially during winter sports, you need to continually replenish liquids your body is using. Most adults need at least 6-8 cups each day. **Water helps fight weight gain.** When internal temperature drops, the body burns more calories to fight the cold. Our mind tells us to throw on an extra layer of clothing, and yes sometimes, grab a calorie-loaded hot food or drink, like hot cocoa. More easily than ever, mindful eating goes right out the window in our attempts to avoid the shivers. When you sip water throughout the day you avoid dehydration and you'll feel less hungry and are less likely to take in excess, empty calories.



# HAPPY HOLIDAYS FROM SSB

## SSB UGLY SWEATER CONTEST



**WINNER**  
Karen Margeson  
Sr. Paralegal



**The SSB Holiday Outing**  
SSB Team members and family  
gathered for a delicious dinner at  
the Brickhouse in Dedham.



**RUNNER UP**  
Lynne Abe  
Paralegal

# From Deb's\* Kitchen to yours

Having lived in New Orleans for a bit, winter brings to mind Mardi Gras and Jambalaya. Here is one of my favorites. It's a delicious blend of warm and comforting, spice and savory, I hope you enjoy it.

***Laissez les bons temps rouler!***

## Cajun Jambalaya



### INGREDIENTS

- 1 tbsp. extra-virgin olive oil
- 1 onion, chopped
- 2 bell peppers (red and green), chopped
- Kosher salt and fresh ground black pepper (add to taste)
- 1 lb. boneless skinless chicken breasts, cut into 1" cubed pieces
- 1 tsp. dried oregano
- 3 - 4 andouille sausage, sliced
- 2 cloves garlic, minced
- 2 tbsp. tomato paste
- 2 c. chicken stock (low sodium)
- 1 (15-oz.) can crushed tomatoes
- 1 c. long grain or wild rice
- 2 tsp. Old Bay seasoning (don't over do)
- 1 lb. medium shrimp\*\*, peeled and deveined
- 2 green onions, thinly sliced

### DIRECTIONS

In a large pot over medium heat, heat oil. Add onion and bell peppers and season with salt and pepper. Cook until soft, about 5-6 minutes, Add chicken and season with salt, pepper, and oregano to taste.

Cook chicken until golden brown, about 5 minutes or so, then stir in andouille sausage (you can pre brown if you wish), garlic, and tomato paste and cook until fragrant, about 1 minute more. Add chicken broth, crushed tomatoes, rice, and Old Bay. Reduce heat to medium low, cover with lid, and cook about 20 minutes or until the liquid is almost gone.

Add the shrimp and cook until pink, 3 to 5 minutes. Stir in green onions just before serving.

**\*\*You can also substitute scallops for shrimp, or add them.**

**Pair with a nice Australian Shiraz or French Sauvignon Blanc.**

\* Not all recipes come solely from Deb's kitchen. Her family and friends like to share. If you have a delicious recipe you'd like to share with our team and clients, please email Deb at hayes @ssbllc.com

# SSB ESTATE PLANNING WORD SEARCH

W K S W S G D H B B W G Z T K D P D C J X N Y J M  
I F X J M V A M A L Q U Z B Q I E H O U Y K A D W  
L H Y J I Z U A B V C A U B H S R U W H O M T X R  
L K P B P B E M B D X R M G G C S J O P G Z C H O  
A J S K R Y X G L R Q D Z K I L O M O W X A J C P  
X I I Q O C E L Z H K I H B D A N Z N T R T V R W  
Q Z M F B U C K B U P A G V G I A H K F M T H E E  
W P J S A K U Q Y Q Y N R B B M L V Y H H O N D L  
D D O V T V T W G X O S A P K E R K U I J R E I R  
W S E W E R O F D H N H N L N R E L I R B N C T E  
B S P S E B R W M T D I T C F A P K R A E E C S V  
A E L U T R T E H K J P O P O Y R W R U S Y R H O  
U D N J T A O V Y N B T R D E C E D E N T I U E C  
Z C M E Y J T F I C E R H R I Z S V V K A N M L A  
V K I I F F X E A W N Y T A S B E R O Y T F M T B  
J T E C N I I U P T M P L L T S N E C O E A E E L  
N J J E F I C D Z L T N F E A P T T A W T C Y R E  
C S E T Z E S I U Z A O Y M Q G A I B N A T L T Q  
A Y T E C J I T A C R N R O I J T R L E X N D R K  
P M A R S X V L R R I K N N B D I E E R A Z Q U X  
A K O T U I H S T A Y A L I E X V M T S G E O S J  
C Z P R T S F H L K T J R V N Y E E R H N U K T A  
I J E U H S T J B B F O Z Y D G U N U I J C F L I  
T X M S O L F E B K P R R Y D D Y T S P V D L S V  
Y B Z T P C M I E B C O N S E R V A T O R S H I P

Administrator  
Attorney In Fact  
Beneficiary  
Capacity  
Conservatorship  
Credit Shelter Trust  
Crummey  
Decedent  
Disclaimer

Estate Planning  
Estate Tax  
Executor  
Fiduciary  
Grantor  
Guardianship  
IRA  
Irrevocable Trust  
Ownership

Personal Representative  
Power of Attorney  
Probate  
Retirement  
Revocable  
Trust  
Trustee  
Will

# Meet Senior Associate Attorney **Abigail Poole**

1

## **What do you do at SSB?**

I am an associate attorney at SSB. This means I am a lawyer who is employed by the firm and I do not have ownership interest like a partner. As an attorney, I have a variety of professional responsibilities, including providing legal advice and counsel to our clients regarding their estate planning needs, representing clients in probate matters and staying abreast of all changes in the law that may affect our clients.

2

## **What do you like best about your job?**

Every client is different, and their needs and desires are different. I very much enjoy educating and guiding our clients through the process of providing a more secure future for themselves and their families.

3

## **What would you do (for a career) if you weren't doing this?**

I would be a therapist or psychologist. Similar to being an estate planning attorney, I like helping guide people through personal challenges and easing emotional burdens. I enjoy empowering people to take charge of their life and plan for a brighter future.

4

## **Where's your favorite place in the world?**

Sandy ocean beach with sunshine, family and friends.

5

## **If you could learn to do anything, what would it be?**

Build my own house from start to finish.

