



Samuel, Sayward & Baler LLC

Smart Counsel... FOR LIFE.

Partners' Letter

“Fall has always been my favorite season. The time when everything bursts with its last beauty, as if nature had been saving up all year for the grand finale.”

— Lauren DeStefano, *Wither*

Dear Clients and Friends:

The green grasses of summer are now covered in a mosaic of vibrant colored leaves that crunch underfoot. Autumn has settled in with the familiar smells of apple pies, pumpkin lattes and home fires burning. Fall's chilly nights have us wrapped up in cozy blankets with our favorite hot beverage, and challenging ourselves to see if we can go one more day than last year before we turn the heat on.

While you're grabbing your cozy blanket, grab your current estate plan documents and review them. With the SECURE Act of 2019, SECURE Act 2.0, and the new change in the Massachusetts estate tax exemption amount, it might be time to

this issue ↓



update your estate plan. Additionally, if there have been changes in your family situation since your documents were signed (marriage, children, the passing of a loved one), then one of your goals for 2024 should be to make an appointment to review your current estate plan with one of our attorneys and determine if any changes are necessary. Please contact Marcy Kadlec at ka-dlec@ssbllc.com to schedule an appointment.

We would like to thank our clients and friends who participated in the September Smart Counsel Series hosted by Attorney Maria Baler. This

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Partner's Letter continued...

quarter's topic was on the valuable resources that are available in our communities for our seniors and veterans. Guest speakers included, Sheryl Leary, Director of Planning and Community Development, HESSCO Elder Services, speaking about resources for home care programs, nutrition programs, family caregiving and clinical assessment and eligibility. Speaker Todd "TJ" Tedeschi, Deputy Director, West Suburban Veterans' Services District, and Lena Arena-DeRosa, Director of the Westwood Council on Aging. Please click [here](#) to watch this informative video, and please share this information with your family members and friends.

We are thrilled to introduce you to our new attorney, Brittany Hinojosa Citron. Brittany is a seasoned attorney, earning her law degree from Western New England University School of Law in 2016. She comes to SSB by way of San Antonio, Texas, where she spent the last several years practicing law in the areas of Estate Planning, Probate, Guardianships and Family Law. We are very happy to have Brittany on the SSB Team. Please check out Brittany's profile in our What's New section.

Please reach out to Kenzie Sayward (kenzie@ssbllc.com) with any questions you might have after reading this newsletter, or ideas for future newsletter articles or topics for our Smart Counsel Series, and please feel free to share this with your family and friends.

As you gather with your family and friends to give thanks this holiday season, we want you to know that you are also a part of our SSB family, and we are very thankful for each and every one of you. On behalf of all of us at Samuel, Sayward & Baler, we send our Best Wishes for a Happy Thanksgiving, a joyous Holiday Season and a Happy and Healthy New Year.

We wish you and yours a
wonderful Holiday Season,

Suzanne R. Sayward
Maria C. Baler



New Massachusetts Estate Tax Law Frequently Asked Questions (FAQs)

Massachusetts recently passed tax relief legislation which was signed into law by Governor Healey on October 4, 2023. The legislation includes ‘goodies’ for many residents of the Commonwealth, including relief for many from the Massachusetts estate tax.

Until this legislation passed, Massachusetts had a \$1 million threshold for taxing estates, the lowest in the country. The new law increases that threshold to \$2 million and eliminates the so-called ‘cliff’ that, under the prior law, resulted in estates which exceeded the \$1 million threshold paying tax on the full value of the estate, not just the amount over \$ 1 million.

1. What is the amount that can pass free of estate tax in Massachusetts after the new law?

The new law exempts estates valued at \$2 million or less from paying estate tax to the Commonwealth.

2. When does the new law go into effect?

The new law is effective for estates of decedents dying on or after January 1, 2023.

3. What estates need to file an estate tax return?

The new law requires that a Massachusetts estate tax return be filed for estates in which the gross value exceeds \$2 million. In determining the gross value of an estate for this purpose, lifetime gifts that exceed the annual gift tax exclusion amount must be added back (see #5 below).


4. If I have an estate plan in place that was created to reduce Massachusetts estate tax, do I need to change my estate plan?

Not necessarily, but it is a good idea to review your plan, particularly your Trust funding, with your estate planning attorney to make sure that you are maximizing the savings that could be achieved under the new law.

5. Can I give my assets away to reduce my estate tax?

Yes. Massachusetts does not have a gift tax. However, if you make gifts in excess of the federal gift tax annual exclusion amount (\$17,000 per person/per calendar year for 2023), you need to include the value of those excess gifts (gifts over \$17,000/person/year) in determining the gross value of your estate to determine whether an estate tax return is required to be filed. For example, if your estate is \$2.5 million and you give away \$600,000 before you pass away reducing your estate to \$1.9 million, your Personal Representative is required to file an estate tax return but there will not be any tax due because the net taxable estate is below the \$2 million threshold.

6. Does this mean that a married couple with less than \$4 million does not need to do any estate tax planning?


Married couples whose estate is close to or more than \$2 million should still consider creating an estate plan that includes estate tax planning. The Massachusetts \$2 million exemption is still a ‘use it or lose it’ gift from the government. For example, if a married couple has a \$4 million estate and they own all of their assets jointly or have each other named as beneficiary, there is no estate tax payable when the first spouse dies (this is the case regardless of the value of the estate as assets that pass to a surviving spouse pass free of any estate tax). However, when the surviving spouse dies with a \$4 million estate, there will be Massachusetts estate tax of \$180,800 due. If they had undertaken estate planning while both were living, they could have reduced the tax to \$0 under the new law. 



Ask SSB

Q: I have specific cremation and funeral services wishes for after I pass away. Where should I write them down so my family knows what to do?

A: A document called a Directive as to Remains (DATR) can be prepared as part of your estate plan. The DATR instructs your Personal Representative (Executor) named in your Last Will & Testament to carry out the disposition of your bodily remains after your death (burial or cremation) and your funeral or memorial services wishes. The DATR is a stand-alone document and separate from your Last Will & Testament. The Massachusetts Uniform Probate Code (MUPC) specifically authorizes the Personal Representative to carry out the DATR instructions prior to the Personal Representative’s official court appointment. After you sign the DATR, you should share a copy with your Personal Representative and the family members you expect to be involved with making your final arrangements.

If you want to learn more about leaving instructions regarding your burial, cremation and/or funeral wishes, please contact our office and schedule a time to meet with one of our attorneys. 



Growing Together, Providing Forever:

5 Things Young Families Should Know About Estate Planning

By Brittany Hinojosa Citron

Starting a new school year comes with a seemingly endless “to-do” list: buy school supplies, meet the teachers, make the school lunches, create a schedule for extracurricular activities, get to those nonstop piles of laundry.

One thing that is always on your mind that may not be written on a list is “planning for the future well-being of your child.” Although a young parent’s “to-do” list may seem daunting, it’s crucial to include estate planning on that list. Estate planning plays a pivotal role in ensuring that your children are provided for in the event of unexpected circumstances.

In Massachusetts, there are specific considerations young parents and families should keep in mind when creating their estate plans. Here are 5 essential things you should know as a young parent (or even as a young grandparent) about estate planning.

1. What is a Guardian?

A guardian is someone who will take legal responsibility for your child’s physical well-being and care in the event that you and the other parent pass away or become unable to care for your child. Your guardian has the authority to make all decisions regarding the care of your minor or incapacitated children, including healthcare decisions, residence, education, and religious upbringing.

You typically name a guardian in your Last Will and Testament to have custody of your minor or incapacitated children. Upon your death and the death of the other parent, the guardian you named will need to go through the court process to confirm their guardianship. The court will evaluate whether the proposed guardian is suitable and whether it is in the child’s best interest to be in the guardian’s care.

2. What is a Conservator?

A conservator is the person who will have authority over your child’s financial assets. This might be necessary if the child received an inheritance, settlement, or other funds that need proper management

until the child reaches a certain age or can manage the assets themselves. This includes Social Security benefits your minor child would receive based on your earnings. If you establish a trust for your children (which I will discuss later in this article), the conservator does not manage the assets in the trust; these assets will be controlled by the person you name as Trustee.

Like naming a guardian, you generally name a conservator in your Will. The conservator can be the same person serving as guardian, but it isn't required. The conservator will also need to go through the court process to be appointed, which can take a long time and requires a lot of court oversight.

3. Parental Appointment of Temporary Agent

I've mentioned that a guardian or conservator named in your Will must go through a court process to be appointed, and that this court process can take a long period of time. What happens during this time that your guardian or conservator is waiting to be appointed by a court? Who takes care of your child and makes decisions for them?

Massachusetts law allows parents of a minor or incapacitated child to designate a temporary agent to take care of the child for up to 60 days. This temporary agent has the power that the parent had regarding the care, custody, or property of the minor or incapacitated child until a permanent guardian or conservator is appointed by the court.

The temporary agent is appointed through a document called a Parental Appointment of Temporary Agent. Keep in mind that you and the other parent must appoint a temporary agent together unless the other parent consents to the appointment in writing or the other parent's parental rights have been terminated.

4. Create a Will or Establish a Trust

Drafting a comprehensive Will is the cornerstone of any estate plan, especially for young parents and families. As I mentioned earlier, you can designate a guardian and conservator for your minor or incapacitated children in your Will. Your Will also specifies how your assets will be distributed to your children; however, it is important to note that your Personal Representative cannot distribute funds over \$5,000 directly to a minor child.

In Massachusetts and many other states, minors under the age of 18 cannot assume control of property given directly to them through an inheritance. If you leave money or assets to your minor child through your Will and you do not specify how those assets are handled, then a conservator will need to be appointed by a court to manage the funds.

This can be avoided by establishing a trust for your minor or incapacitated child. A trust can manage and protect your child's inheritance and be tailored to your preferences, specifying when and how your child will receive assets. You can also name a Trustee to manage the trust assets on behalf of your child. The Trustee may be a family member or friend, professional fiduciary (attorney or accountant), or corporate fiduciary (such as a bank).


5. Properly Designate Beneficiaries

You should regularly review and update beneficiary designations on your life insurance policies, retirement accounts, and other assets. Well-intending parents may name their minor or incapacitated children as beneficiaries of their life insurance policies or retirement accounts so that the child receives the assets directly. However, remember that minors under the age of 18 cannot assume con-

trol of money. This means that naming your minor child as a beneficiary can result in unnecessary complications and a conservator needing to be appointed by the court. Naming an incapacitated child comes with its own set of complications, which can include the child losing essential government benefits.

It is important to consult with an experienced estate planning attorney about properly designating beneficiaries on your life insurance policies, retirement accounts, and other assets to ensure that the funds are used for your minor child's care while reducing any unnecessary hurdles or court involvement.

These are tough decisions that require thoughtful consideration and planning. As your family grows, the last thing you want to think about is what happens to your child if you are no longer around. Unfortunately, life is unpredictable, and taking proactive steps now will provide peace of mind knowing that you have taken care of your child's well-being, no matter what the future holds. Estate planning is crucial in securing your child's future and addressing the unique needs of your family. We are happy to help you ensure that the legal aspects are properly handled so that you can go back to making great memories with your family, and maybe even finishing those piles of laundry.

Attorney Brittany Hinojosa Citron is an associate attorney with the Dedham firm of Samuel, Sayward & Baler LLC which focuses on advising its clients in the areas of trust and estate planning, estate settlement and elder law matters. 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. For more information visit ssbllc.com or call  781/461-1020.

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Additional resources for caregivers:

Massachusetts Health & Social Service: Family Caregiver Support Program

<https://www.mass.gov/info-details/caregiver-help-and-information>

The Healthy Living Center of Excellence

<https://healthyliving4me.org/workshop-schedule/>

Caring for the Caregiver Webinar Series (Featuring SSB Attorney, Abigail Poole)

<https://www.youtube.com/watch?v=qalcjBdBdM&list=PLoJinQ2S5Edhks8CErgM0uYVMkvCdxIE&index=1>

What's New at SSB



Red Sox Game 2023

Brittney, Joanne, Kenzie, Kayla, Jasmine, Abby & Steve



THANK YOU
Y SUPPORTER!

**SAMUEL SAYWARD
& BALER LLC**

FOR YOUR SUPPORT & DEDICATION TO HELP
MAKING THE PARKWAY COMMUNITY YMCA'S
13TH ANNUAL GOLF TOURNAMENT A
"HOLE IN ONE!"



The Partners and staff of
Samuel, Sayward & Baler
are proud to support the wonderful
programs and community outreach being
done by the YMCA.

Meet Associate Attorney *Brittany Hinojosa Citron*

1 What do you do at SSB? I'm an Associate Attorney at SSB where I assist and advise clients in the areas of estate planning, probate, elder law, and estate and trust administration.

2 What helped you choose estate planning as an attorney? I initially chose to pursue a career as an attorney because I wanted to help people. I have previously practiced in different areas of law, but I was always passionate about estate planning because I felt that I was truly helping people take care of the most important things in their life. I strongly believe that through dedicated service and planning, I can help provide peace of mind to families that their loved ones will be taken care of when they are not around.

3 What's a cause that you are passionate about? I am passionate about education and the importance of its accessibility to everyone, no matter where you come from. Knowledge is power, and if we could understand each other better and be open to learning things outside of our own bubble, we can enrich our lives and the lives of everyone around us. This ties into why I'm so passionate about estate planning because people have their own ideas about Wills and estate planning that might hinder them from being proactive and creating their own estate plan. I like to educate people about estate planning so that they can make thoughtful and informed decisions for their loved ones.

4 What's the best trip you've ever been on and why? My husband and I traveled to England after we were married, and we absolutely loved it. We almost moved there!--but we opted for "New" England instead. It was amazing to travel around the cities and countryside of England and take in all the landscape and history it had to offer.

5 What are some of your favorite local spots to visit? I'm still new to eastern Massachusetts, so I'm always looking for places to go! Right now, I enjoy exploring the area by going to the local restaurants, stores, farms, and just driving around and taking in the scenery.

