Samuel, Sayward & Baler LLC

Smart Counsel... FOR LIFE.

Partners' Letter

"Autumn leaves don't fall, they fly. They take their time and wander on this, their only chance to soar."

— Delia Owens, Where the Crawdads Sing

Dear Clients and Friends:
The green grasses of summer are now covered in a mosaic of orange, red, green, and gold leaves. The dog days of summer days have given way to crisp mornings, warm afternoons, and chilly nights. This is the beginning of a special time of year. A time when we gather together to pick apples and carve pumpkins, and most importantly spend precious time with family and friends.

Soon the holidays will arrive in all their splendor and delicious aromas, and 2024 will come to a close. The end of the year is a time for reflection and planning. If it has been more than five years since you reviewed or updated your estate plan, or 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 2025 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 our office to schedule an appointment

On page 3, Attorney Leah Kofos updates us on what you need to know about the new Massachusetts Homestead Exemption increase from $500,000 to $1,000,000 per person, and what you may need to do if you are over the age of 62.

P3 Changes to the MA Homestead Exemption

P5 5 Things Young Families Should Know

P8 Ask SSB: What is the CTA?

P10 What's New at SSB

Partner's Letter continued...

One of the most important decisions you may need to make as a parent is, who will take care of my children if something happens to me? Who can we trust with our money to ensure it is used to care for our children? Attorney Brittany Hinojosa Citron shares important answers to these questions on page 5 with our ***5 Things Young Families Should Know About Estate Planning***.

And for our clients and friends who are owners or officers of corporations, limited liability partnerships (LLPs) and limited liability companies (LLCs), Attorney Maria Baler explains the new Corporate Transparency Act (CTA) and what you are now required to do on page 8.

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, 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.

Warmly,

Suzanne R. Sayward
Maria C. Baler

Massachusetts Homestead Exemption Increase: A Boon for Homeowners' Financial Security

By: Attorney Leah A. Kofos

In a significant move aimed at bolstering the financial security of homeowners, Massachusetts has increased its declared homestead exemption from $500,000 to $1,000,000 per person. This change, which effectively doubles the amount of home equity that residents can protect from creditors, represents a landmark shift in the state's legal framework for asset protection. The increase reflects the evolving realities of Massachusetts' real estate market, where rising home prices have outpaced previous protections.

Understanding the Homestead Exemption

The homestead exemption is a legal provision that allows homeowners to protect a portion of their home's equity from creditors in the event of bankruptcy, lawsuits, or other financial distress. In essence, it safeguards a homeowner's primary residence by ensuring that a portion of its value cannot be claimed by unsecured creditors, helping people avoid losing their homes due to financial hardship.

Before this increase, Massachusetts residents were allowed to protect up to $500,000 of their home's value by filing a Declaration of Homestead with the Registry of Deeds. However, with property values steadily rising across the state – especially in areas like Boston, Cambridge, and the suburbs – this protection was becoming insufficient for many homeowners. The new $1,000,000 exemption reflects the evolving economic realities in the state's real estate market.

Benefits for Elderly Couples: Up to $2,000,000 in Protection

A particularly notable aspect of the increased homestead exemption is the benefit it offers to couples aged 62 and over (called "elderly" couples for the purposes of the statute). The new law allows each person over 62 to claim the homestead, which can safeguard up to $2,000,000 of an elderly married couple's home's value from creditors.

This increased protection is especially important for retirees, who often depend on their home's equity as a financial resource in their later years. Whether they plan to downsize, take out a reverse mortgage, or simply pass their home on to their heirs, the ability to protect $2,000,000

in equity provides much-needed peace of mind for aging homeowners.

The Reason Behind the Increase

Over the past decade, property prices in Massachusetts have surged, largely driven by increased demand, limited housing supply, and the attractiveness of cities like Boston as innovation and education hubs. In the Greater Boston area, the median home price has consistently exceeded the previous $500,000 exemption threshold, leaving many homeowners exposed to potential financial vulnerability. By doubling the exemption to $1,000,000, the state is helping to ensure that more residents can fully protect their home equity, regardless of market fluctuations.

The increase in the homestead exemption also comes as a response to concerns about economic challenges. The updated law provides a stronger financial safety net for Massachusetts residents.

By providing greater financial protection to homeowners, the increased homestead exemption may also help promote homeownership in Massachusetts. First-time homebuyers may feel more confident entering the housing market, knowing they have a higher level of protection against financial risks. For existing homeowners, this change could provide peace of mind, particularly for those nearing retirement or who are otherwise financially vulnerable.

Do You Need to Refile?

If you already recorded a homestead declaration, there's good news: you don't need to take any additional steps to benefit from the increase in exemption. The new $1,000,000 protection automatically applies to all homeowners with an existing declared homestead declaration, meaning you can take advantage of the updated law without needing to file any new paperwork. Not sure if you've already declared a homestead on your property? See an estate planning attorney or visit the Registry of Deeds website in your county.

However, for homeowners turning 62, there is a special consideration. To qualify for the elderly homestead benefit, which allows each person over 62 to protect up to $1,000,000 in home equity, you must refile a homestead declaration after reaching that age. This refiling is essential for married persons over 62 to take full advantage of the elderly-specific exemption, which could provide significant additional protection. So, if you or your spouse are approaching 62, or if you've turned 62 since the last time you filed a homestead, make sure to file a new homestead declaration to maximize your protection.

The increase in homestead exemption marks a significant step toward providing greater financial security for homeowners. As property values rise and economic uncertainties persist, this increase offers a much-needed safeguard, ensuring that more residents can protect their homes and retain their wealth. While the full effects of this change will unfold over time, the increased exemption is poised to offer tangible benefits for individuals, families, and the Massachusetts housing market as a whole. ■

Growing Together, Providing Forever:
5 Things Young Families Should Know About Estate Planning

By Attorney Brittany Hinojosa Citron

The school year always comes with a seemingly endless "to-do" list: buy school supplies, meet with the teachers, make the school lunches, follow the 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 inca-

pacitated 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 control 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. ■

14th year

6th year

3rd year

Congratulations

Attorneys

Suzanne R. Sayward
Maria C. Baler
Abigail V. Poole

named

2024 Super Lawyers

Super Lawyers is a rating service of outstanding lawyers who have attained a high-degree of peer recognition and professional achievement.

Rated by
Super Lawyers®
2024
Massachusetts

Ask SSB

Q: My husband and I created an LLC to hold our rental property. We have heard people talk about the Corporate Transparency Act and the requirement to take some action before the end of this year. What is this all about?

A: The Corporate Transparency Act (CTA) is a federal law that became effective on January 1, 2024. The CTA is administered by the Financial Crimes Enforcement Network (FinCEN) and requires the reporting of beneficial ownership information (BOI) to the federal government. The purpose of the new law is to combat money laundering and other financial crimes.

The CTA establishes reporting requirements for certain entities including corporations, limited liability partnerships (LLPs) and limited liability companies (LLCs). Here are some highlights of the law that are important for you to know if you are the owner of a closely-held corporation, or a partner, member, or manager of an LLP or LLC:

- The CTA requires that an entity report information about certain beneficial owners of an entity (those who have substantial control or who own or control at least 25% of the interest in the entity).
- If the entity was created before 2024, an initial report must be filed before January 1, 2025.
- If the entity was created during 2024, the initial report must be filed within 90 days of creation.
- If an entity is created on or after January 1, 2025, reports are due within 30 days of the entity's creation.
- If there is any change in information previously reported (such as a change in ownership, or a change in an owner's name or address), the change must be reported within 30 days of the change.
- Reports are submitted electronically via the FinCEN website. Reports can be submitted here. If you are the direct owner/member/partner of an entity, you should be able to submit the BOI report yourself on the FinCen website.
- If you have multiple entities, or a multi-layered entity, you may wish to consult a business attorney for assistance with your reporting requirements.
- A fact sheet regarding these reporting requirements can be found here on the FinCEN website. FAQs can be found here.

The CTA's reporting requirements are important and time-sensitive, and penalties for failure to report BOI in a timely way are significant. If you have any questions about what you may be required to do, please consult the attorney who formed your entity or your accountant. Not all attorneys and accountants are handling BOI reporting for their clients, but they should be able to refer you to someone who can take care of it for you if you do not wish to do the reporting yourself. ■

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.

© 2024 Samuel, Sayward & Baler LLC

Health Care Proxy Signing Event in Framingham

On October 19th, The Massachusetts Chapter of the National Academy of Elder Law Attorneys (MassNAELA) partnered with Dia Feliz Adult Day Health Center to assist community members with completing and signing standard Health Care Proxies. SSB Attorney Abigail Poole (L), is a past president of MassNAELA.

A Health Care Proxy is a legal document that gives someone the authority to make medical decisions on your behalf if you are unable to do so.

"After many years, we decided to update our estate documents with our law firm. Our lawyer, Abigail Poole was professional, knowledgeable, friendly and efficient in all our communications, whether in person or in Zoom meetings. We were given helpful advice along with any and all possible options for our estate needs. We were very pleased with the thoughtful care that was given to our estate planning and requests.

Estate Planning Client

What's New at SSB

SSB at the Sox
August 23

Abby & Maria

Kenzie, Joanne, Jasmine, Aubrie & Leah

Maria, Leah, Jasmine, Steve,
Aubrie, Joanne, Sue, Karen
Kenzie & Carol

Leah, Joanne, Abby, Maria & Jasmine

What's New at SSB

Apple Picking September 13

Leah, Brittney, Maria, Jasmine, Joanne & Aubrie

What's New at SSB

Hocus and Pocus and Pumpkins... OH MY!

A fun evening of painting pumpkins and watching Disney's Hocus Pocus

A pumpkin selfie, Maria?

Meet Senior Paralegal

Karen Margeson

What do you do at SSB?
I am a senior paralegal at Samuel, Sayward & Baler LLC. I assist in drafting estate plan documents, assist clients with trust funding and prepare estate tax returns for review by the attorneys.

What do you like most about your job? Creating an estate plan can sometimes be overwhelming for clients. I enjoy assisting clients in understanding their estate plan documents and working with them to get their Trusts funded.

What is the best career lesson you've learned so far?
The best career lesson I have learned so far is that good communication is the best skill to have in business and life.

What do you like to do when you aren't working?
When I am not working, I enjoy working on genealogy projects, cooking and gardening

If you could have any superpower what would it be?
If I could have any superpower it would be the ability to read minds.

What is your motto or personal mantra?
What doesn't kill you makes you stronger.