

PACIFIC BUSINESS NEWS

THE BUSINESS OF LAW

EXPERT LEGAL ADVICE FOR HAWAII'S SMALL BUSINESS

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TOPIC

Time to Review Your Estate Plan Estate planning is not a one shot deal. Life changes are constant. Review your plan for these issues:

- Can you locate all of your original documents?
- Do you have a will or only a trust?
- If you have a trust, have you made the trust the owner of your assets?
- Do you have an Advance Directive and a HIPAA form?
- Can you locate your beneficiary designation forms?
- Who are your beneficiaries? Are the distribution ages still appropriate?
- Who are your trustees? Guardians? Health Care Agents?
- During your incapacity, does the trustee have authority to support your spouse and descendants?
- When you pass, does your trust terminate or does it continue? Trusts help to avoid probate and other costs and can terminate after you die, but many continue on, sometimes to the surprise and dismay of your family:
 - Is your spouse required to continue it and, if so, why? Are there tax advantages? Are you worried about remarriage?
 - Are your children required to continue it and if so, why? Are there tax advantages? Creditor or divorce protection advantages? Is it important to keep the property in your bloodline?
 - If the trust continues, can your spouse spend down the assets in the trust, or is she only entitled to income? If the remainder goes to your children, after you die can your spouse change how much each child gets? If not, will the kids still send birthday cards?!

TOPIC

Some Revenue Provisions of the Health Care Bill

The Health Care and Education Reconciliation Act of 2010 contains a number of revenue raising provisions, including the following:

- Eff. 2018: imposes an excise tax on 'Cadillac' health plans equal to 40% of amounts paid in excess of \$10,200 per year for single coverage and \$27,500 per year for other than single coverage
 - Eff. 2013: imposes a 3.8% tax on the net investment income of taxpayers with gross incomes of more than \$200,000 (\$250,000 for joint filers) ("net investment income" includes dividends, annuities, royalties, rents, passive income, and net gain from sales of non-business property)
 - Eff. 2013: imposes a limit of \$2,500 on pre-tax contributions to health care flexible spending arrangements in cafeteria plans
 - Eff. 2011: imposes a fee on sales of branded prescription drugs
 - Eff. 2013: imposes a 2.3% tax on sales of certain medical devices
 - Eff. 2014: imposes a fee on net premium income of health insurance providers
- Obviously, the HCERA is a monumental piece of legislation that will have far reaching effects for years to come.

TOPIC

Planning Key to Liquor Licenses

Planning a new business venture for the new year? If you're thinking about opening that cute little café or hot nightclub you've always dreamed about, it's important to think about the following:

Timeline. Depending on the county, it can take anywhere from two to six months to obtain a new liquor license or transfer an existing license. Keep this in mind in scheduling the Grand Opening.

Logistics. Applicants must submit extensive and detailed information. Unexpected hurdles can arise. Mainland or foreign owners/partners may have limited access to fingerprinting (some jurisdictions use incompatible electronic fingerprint technology). Floor plans or other required documents may need to be prepared, located, updated or corrected. Start compiling application materials as early as possible.

Community Impact. In some instances, community protest can delay or even derail an application. Discuss potential concerns with members of the community to facilitate approval.

Compliance. Know the requirements of applicable law. Keep in mind that each county has its own regulations and procedures. Get to know the Commission personnel in your jurisdiction. Ask questions and reply promptly to any Commission inquiries.

Assistance. Seek assistance when necessary. A delayed opening or liquor-free opening can prove more costly than the services of an attorney or other consultant.

The process can be daunting but with proper guidance, communication and attention to detail, it can be done. Cheers to the new venture!

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