

- ▶ W. LEE ALLEN, II NAMED LEGAL ELITE 2
- ▶ TAX TALK: TAX RULES FOR CHARITABLE GIVING? 2
- ▶ AWARD WINNING LAW FIRM 3
- ▶ EMPLOYER CORNER..... 3

COLOMBO KITCHIN Legalnews

ADDRESSING THE LEGAL NEEDS OF INDIVIDUALS AND BUSINESSES IN OUR COMMUNITY



Why Everyone Still Needs Estate Planning

Author: Charlotte-Anne Alexander and Michael D. Ball, Attorneys at Law

“Estate Planning” focuses on goals for transferring property during lifetime and at death, minimizing taxes and protecting assets and beneficiaries. Not everyone needs to do “Estate Tax” Planning, but everyone needs to do estate planning.

Without a valid will, your assets will pass to your heirs by “intestacy” pursuant to “The Intestate Succession Act” (N.C.G.S. §29-1, et. seq.) In other words, the State makes your Will for you if you don’t. Applying the provisions of this Act are not usually what the deceased person (“decedent”) would have intended.

Assume a young family of husband, wife and two children, ages 10 and 12. Wife has separate assets including rental property worth \$150,000, stock in a closely held corporation worth \$150,000 and securities worth \$300,000. Wife dies unexpectedly without a valid will. Her “probate” estate includes her separate property of \$600,000 as detailed above.

Under the Intestate Succession Act and because wife was survived by her husband and two children, her husband receives: a 1/3 undivided interest in the real estate, the first \$60,000 of personal property and 1/3 of the balance of personal property. The two minor children would inherit the rest. These assets are distributed as listed on the chart.

Because Wife did not have a will, she has partially “disinherited” the

husband and left the court to appoint a Guardian to manage the minor children's assets until they reach age 18. Management of guardianship assets for minors is a time-intensive and expensive process that continues until the children reach age 18. This is

she can appoint Guardians for the “care, custody and control” of her minor children. Further, she can establish a trust for the children's education, health care and support. This trust could delay distribution of their inheritance until they are older, rather than at age 18. Finally, she can appoint a person to serve as Executor to administer her estate or as Trustee to manage the children's assets in trust.

The only way to ensure your assets are administered, managed and distributed as you wish is to execute a valid will prepared by your attorney. Your estate plan may also include a Health Care Power of Attorney, Living Will (Declaration of Desire for a Natural Death) and a General Durable Power of Attorney for financial matters.

Asset	Wife	Children
Rental Property	(1/3) \$50,000	(2/3) \$100,000
Stock	(1/3) \$50,000	(2/3) \$100,000
Securities	First \$60,000, (1/3) \$80,000	(2/3) \$160,000
Totals	\$240,000	\$360,000

just one example of the consequences that could result without a proper will.

To protect your family, a properly drafted will prepared by an experienced estate planning attorney is a necessity. With a proper will, the wife could transfer her assets to her husband. If husband did not survive,

This Edition's FEATURED ATTORNEY



W. Lee Allen, III



Business North Carolina listed Lee Allen as a member of its [Legal Elite](#) in the area of Family Law for the fourth year in a row. Fewer than 3% of the state's lawyers made this year's list of Legal Elite. Allen received his undergraduate degree from East Carolina University and his law degree from Wake Forest University and focuses his practice solely on Family Law matters. He is one of only four attorneys in Greenville who is a State Bar Board Certified Specialist in Family Law and certified as a Family Financial Mediator by the North Carolina Dispute Resolution Commission. Allen served from 1998 to 2008 as a member of the Judge Advocate General Corps in the U. S. Army.

Can't file by April 18th? Use [Free File](#) to get a six-month extension. In a matter of minutes anyone, regardless of income, can use this free service to electronically request an automatic tax-filing extension on Form 4868. Filing this form gives you until October 17th to file a return.

Visit My Blog

Please visit our website at www.ck-attorneys.com and look for the blog buttons on these profile pages: Tracy Stroud, Lee Allen, Brad Piner, Kevin Sayed, Charlotte-Anne Alexander and Jack Brock.

Tax Talk: Tax Rules for Charitable Giving

Author: Kevin M. Sayed, Attorney at Law

A tax deduction may not be your primary reason for charitable giving, but if you itemize on your tax return, you may be eligible for one. However, you should be aware of a few rules. In order for a donation to be tax deductible, it must be made to a qualified organization (donations you make to an individual are never deductible). Most organizations, other than churches and governments, must apply to the IRS to become qualified. You can confirm an organization is qualified at www.irs.gov by typing "Exempt Organizations Select Check" in the search box on the home page.

In order to qualify for the deduction, you must have proper documentation for the type of contribution you made:

Cash contributions – Donations made with cash, check, debit or credit card, payroll deduction, or electronic funds transfer require a written acknowledgement from the organization if the donation exceeded \$250. For lesser amounts, you must at least have proof of the donation such as a cancelled check or a receipt from the organization.



Non-cash contributions – generally, you must keep written records of the contribution that detail the name and address of the organization, the date of the donation, the value and a description of the property donated, and the amount you paid for the item(s). In most cases, you must have

a written receipt from the organization; however, if the donation is valued less than \$250, the IRS waives the receipt requirement "if it is impractical to get one." An example would be items donated at a Goodwill drop box. If the item(s) are valued at more than \$500, additional requirement must be met. For questions about larger charitable gifts, please contact Attorney Kevin Sayed at 252-321-2020.

Out-of-pocket expenses – Expenses such as supplies purchased, mileage, or airfare incurred while providing a service to a qualified organization may be deductible if you maintained proper records (receipts, mileage log, etc.). You must have written acknowledgement from the qualified organization if the expenses exceeded \$250.

Finally, you cannot deduct a donation if you received a benefit in return. For example, if a charity sold fish dinners for \$10, the \$10 is not deductible unless you declined to take the plate. For more information, refer to IRS Publication 256, *Charitable Donations*.

Maximize your IRA Savings

It's not too late to make IRA contributions for 2016! Whether you are looking for an additional tax deduction or trying to maximize your retirement savings, you have until April 18, 2017 to make IRA contributions for the 2016 tax year.

AWARD WINNING LAW FIRM

Michael A. Colombo and John B. Dunn, Jr. Named 2017 Best Lawyers

Colombo, Kitchin, Dunn, Ball & Porter, LLP was named by *U.S. News and World Report* as a Tier 1 **Best Law Firm** in Tax Law for the Raleigh Metro Area of North Carolina.



Michael A. Colombo was named in the practice area of Tax Law. Mike is a past president of the North Carolina Bar Association and founding partner of Colombo, Kitchin, Dunn, Ball & Porter, L.L.P. He is a North Carolina Board Certified Estate Planning and Probate Specialist, and also practices in the areas of business planning and taxation law.



John B. Dunn, Jr., was named in the practice area of Elder Law. John has practiced in Greenville since 1992 and has extensive experience in elder law, estate planning, estate administration and guardianships. He is also the Public Administrator for Pitt County.

Only the top four percent of US lawyers are named by *The Best Lawyers in America.*

Firms included in the 2017 "Best Law Firms" list are recognized for professional excellence with persistently impressive ratings from clients and peers. Achieving a tiered ranking signals a unique combination of quality law practice and breadth of legal expertise.

Employer

C O R N E R

Document Your Employee Performance Deficiencies

Author: Tracy H. Stroud, Attorney at Law

For multiple reasons, it is imperative that employers document and communicate performance deficiencies with the employee and keep written documentation in the employee's personnel file. The write-up and counseling should occur at the time the deficiency occurs not at the annual review.

This written documentation and communication with the employee is important to defend against litigation. First, if the employee files an employment discrimination claim, the record of performance deficiency and the employee's knowledge of the issues illustrate a legitimate, non-discriminatory reason for termination. Second, it may save the employer from paying unemployment benefits. The documented performance problems may illustrate misconduct, which will exclude the employee from receiving unemployment. If the employee were to receive unemployment benefits, they would be charged to the employer's unemployment account.

Guidance on Depression and PTSD

Author: Tracy H. Stroud, Attorney at Law

On December 12, 2016, the EEOC published information summarizing the rights of individuals in the workplace who suffer from depression, PTSD, and other mental health conditions. The information covers information such as discrimination and harassment, privacy and reasonable accommodations in the workplace.

The link to the publication is https://www.eeoc.gov/eeoc/publications/mental_health.cfm.

For help with employment law questions or other civil litigation issues, call Tracy Stroud, Attorney with Colombo Kitchin Attorneys in Greenville, NC, at 252-321-2020.

