

MORELLI LEGAL COUNSEL, P.C.

ATTORNEYS AT LAW

New Radon Disclosure Requirements for Residential Real Estate Transactions Beginning in 2008.

In January 2008, a new law became effective that concerns Illinois homeowners dealing with the existence of radon in homes. Specifically, Governor Rod Blagojevich signed into law the Illinois Radon Awareness Act ("Radon Act") considering the fact that studies have found that indoor radon is the second-leading cause of lung cancer. It comes from the radioactive decay in the soil. Generally speaking, with this new law comes the requirement that the Seller make certain disclosures to Buyers regarding the existence of radon above the current EPA action level for transactions occurring January 1, 2008 forward. The current EPA action level for radon is 4 pCi/l.

So what does all this mean and what are the obligations placed upon the parties with the Radon Act? A Buyer will not be considered to have proper knowledge as to the condition of the property until the following events have occurred:

- Buyer is provided the "Radon Testing Guidelines for Real Estate Transactions" pamphlet provided by the IEMA and Illinois Disclosure of Information on Radon Hazards advising that the property may present a potential for exposure to radon;
- Seller had made proper statutory disclosure to Buyer and the real estate agents regarding Seller's knowledge of elevated radon concentration (above EPA action level) as well as provided the Buyer with all available records and reports pertaining to elevated radon concentrations within the property

What the Radon Act does not mean is that a Seller must conduct a radon test or conduct remediation. However, the Multi-Board Residential Real Estate Contract 4.0 form provides in pertinent part that if radon mitigation is performed that the Seller will pay for a retest. Therefore, if you are a (continued)

Contact Morelli Legal Counsel, P.C. today at 630.377.7500.

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prospective Buyer you may want to specifically ask the Seller if the property has been tested for Radon and test the property yourself.

<http://iema.illinois.gov/radon/radon.htm> or contact Morelli Legal Counsel, P.C. at 630.377.7500.

For more information regarding radon in Illinois homes as well as request a radon test kit, visit

Tax Gifts and the Law

What is considered a gift?

Any transfer to an individual, either directly or indirectly, where full consideration (measured in money or money's worth) is not received in return.

Who pays the gift tax?

The donor is generally responsible for paying the gift tax. Under special arrangements the donee may agree to pay the tax instead. Please contact us or your tax professional if you are considering this type of arrangement.

What can be excluded from gifts?

The general rule is every gift is a taxable gift. However, there are many exceptions to this rule. Generally, the following gifts are not taxable gifts.

1. Gifts that are not more than the annual exclusion for the calendar year (2008 \$12,000.00 per donee).

2. Tuition or medical expenses you pay for someone (the educational and medical exclusions).

3. Gifts to your spouse.

4. Gifts to a political organization for its use.

In addition to this, gifts to qualifying charities are deductible from the value of the gift(s) made.

What happens if I sell property that I have inherited?

The sale of such property is usually considered the sale of a capital asset and may be subject to capital gains (or loss) treatment. However, IRC §1014 provides that the basis of property acquired from a decedent is its fair market value at the date of death, so there is usually little or no gain to account for if the sale occurs soon after the date of death. (Remember, the rules are different for determining the basis of property received as a lifetime gift).

What Are Letters Testamentary?

Once a personal representative has been appointed and qualified by the court to handle the deceased's estate, the court clerk will issue documents which note that this individual has been appointed by the court as the personal representative and that they are qualified to carry out their duties and responsibilities. In other words, these documents can be used by the personal

representative as evidence of their role while trying to handle estate affairs. Where the estate is being distributed pursuant to a legally valid will, these documents are known as letters testamentary. When there is no such legally valid will, and the estate is being distributed pursuant to state intestacy statutes, the documents are known as letters of administration.

AB Trusts

If you are married and have grown children, the best and most popular way to avoid estate taxes is probably through an AB Trust, or a marital life trust. In an AB Trust, the spouse put their property in a trust, and when

one spouse perishes, his or her share of the property goes to the children. However, the surviving spouse still gets the right to use the trust for the rest of his or her life. Then, when the second spouse perishes, the entire trust

goes to the children outright. The use of an AB Trust, if set up properly, may result in hundreds of thousands in tax savings, creditor protection and avoid probate.

However, AB Trusts can be tricky because they control the property sometimes for many years after the first

spouse has deceased. For instance, if one spouse perishes, and the surviving spouse lives for 30 more years and remarries during the interim, or even has additional children, the assets of that AB Trust still fall according to the rules of the trust when the first spouse has perished.

Tips to Make This Year the Best Ever!

Create a vision for your company.

A vision statement crystallizes what you want your company to look like in the future. It is a clear image of the end result. (Even though you may never really have an end).

Create a vision for yourself.

Describe your future the way you would like it to be. Avoid slipping into the negative of what you think your future may really be. Allow yourself to dream big. Now write it down!

Set personal and professional goals

Set goals that will take you closer to your vision

statements. Start with only 4 or 5 goals for each personal and professional vision statement. Make sure each goal is necessary and sufficient. Also, each goal needs to be SMART. Specific, Measurable, Attainable, realistically high, and Time bound. And again, write it down!

Have fun

I have never heard anyone laying on their death bed saying: "I wish I would have worked more". Take time for yourself, family, and friends. Enjoy life!

The Days of Confiscating Licenses for Moving Violations in Illinois May Be Numbered

Did you know that when you get pulled over and issued a speeding ticket or a ticket for any other moving violation, the officer may confiscate the driver's license until the case is resolved? To anyone who has a clean driving record in Illinois, this may come to a shock and surprise when it happens. However, according to Josh Noel's March 7, 2008 article in the Chicago Tribune, this practice may be soon coming to end.

Currently, Illinois law mandates that Illinois drivers post some sort of bail for speeding tickets and other moving violations. Acceptable forms of bail or security to ensure the violator's payment of the fine associated with the ticket or appearance in court may be any of the following according to Illinois Supreme Court Rule 526: (1) going to the police office and making a deposit; (2) surrendering your driver's license; (3) surrendering an insurance bond card; or (4) just signing the ticket promising to appear or pay the fine.

According to Noel's article, one of the biggest supporters of the change in the law is the DuPage County Circuit Court Clerk who makes a valid point that a person's driver's license is often their only form of government issued identification. In today's era of increased security, not having any form of government issued identification can wreak havoc on those individuals' life. While the ticket will serve as valid identification and license in the event you are pulled over while that traffic matter is pending, this does not help those who travel by air or need to rent a car.

Noel's article indicates a solution may be on the near horizon with certain agencies within the state experimenting with e-tickets and payment by credit or debit cards. This would allow driver's to post bail or pay their fines at the scene of the violation and thus allow the driver to maintain possession of their license.

Contact Morelli Legal Counsel, P.C. for updates regarding this matter at 630.377.7500.

Follow the Money

Americans can get a better look at their federal tax dollars at work on a new Web site that debuted in January 2008.

Assembled by the White House, the web site, www.usaspending.gov, lets taxpayers see who gets about \$1 trillion in government contracts and grants. It's searchable by recipient and by congressional district and has a place for users to 'sound off' with their comments. It's a small but important step toward greater transparency in government, which can only help deter waste and abuse.

Check it out at: www.usaspending.gov.

CLIENT'S CORNER

DUKANE ALLERGY ASTHMA ASSOCIATES, LTD.

Philosophy Statement

We provide quality care within the allergy, asthma and clinical immunology fields by experienced board-certified physicians and knowledgeable staff.

Virginia P. Madla, M.D.

Dr. Madla's vast experience in treating allergic diseases, asthma and immune problems is evident by her professional presence as a board certified allergist and clinical immunologist. Dr. Madla has been in private medical practice since 1972. Her hospital affiliations are with: Central DuPage Hospital, Winfield, IL (consulting); Delnor Community Hospital, Geneva, IL; Provena St. Joseph Hospital, Elgin, IL and Sherman Hospital, Elgin, IL (consulting).

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Associations: Illinois State Medical Society / American Medical Association / American Medical Women's Association / Illinois Society of Allergy, Asthma and Immunology / Kane County Medical Society

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