

Lahti, Lahti & O'Neill, LLC

Estate Planning and Elder Law



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Estate Planning Solutions

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Lahti, Lahti & O'Neill Launched 1/1/11

We are proud to announce that on January 1, 2011, the Providence, Rhode Island law firm O'Neill Estate Law merged with the New Bedford, Massachusetts law firm Lahti & Lahti P.C. to form **Lahti, Lahti & O'Neill, LLC**, with headquarters in Providence, Rhode Island and additional offices in New Bedford, Massachusetts and West Harwich, Massachusetts.

See page 2 for detailed information on the background and experience of the firm's principals, Stephen T. O'Neill, Michael T. Lahti and Maria H. Lahti.

Michael, Steve and Mia will be most capably supported by Senior Paralegals Mary MacLeod and Laurie LaRoche, each of whom has more than 15 years experience in the fields of estate planning and estate and trust administration.

The new firm concentrates its practice in estate planning and elder law and the related areas of estate and trust administration, probate, trusts, wills, taxation and long term care planning.

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The 2010 Temporary Tax Relief Act

On December 17, 2010, President Obama, no fan of pronounceable acronyms, signed **TRUIRJCA 2010**, or the **Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010**. We'll call it the **Temporary Tax Relief Act of 2010**, because that's what it provides. A summary of the new law's estate planning-related provisions appears on Page 3. If you have questions about how **TRUIRJCA 2010** affects your estate plan, call Michael, Steve or Mia; or email to Michael@LLO-Law.com or Steve@LLO-Law.com or Mia@LLO-Law.com.

Michael T. Lahti

Michael, a member of the Massachusetts, Rhode Island and Florida Bars, has practiced law since 1995, concentrating in estate planning, taxation, probate, estate and trust administration, elder law and long term care planning.

He has been designated a **Certified Elder Law Attorney** by the ABA-approved certifying entity, the **National Elder Law Foundation**. In 2010 he was listed by **Boston Magazine** as a **SuperLawyer** in the fields of Estate Planning and Probate.

Michael has an L.L.M. in Estate Planning from University of Miami's School of Law. He earned his law degree from John Marshall School of Law in Chicago, where he also received a Certificate in Estate Planning and Personal Financial Planning from John Marshall's Graduate Tax Department. He graduated from Ripon College in Ripon, Wisconsin with an Economics and Business Management degree.

Michael is married to Mia Lahti. They reside in South Dartmouth with their three children, David, 15, Martha, 13, and Holly, 9. Michael and Mia also have a vacation home in Matunuck, RI.

Wisdom from Voltaire (1694-1778)

"Animals have these advantages over man: they never hear the clock strike, they die without any idea of death, their last moments are not disturbed by unwelcome and unpleasant ceremonies, their funerals cost them nothing, and no one starts lawsuits over their wills."

Stephen T. O'Neill

Steve is a graduate of Fairfield University and Fordham University School of Law. Since beginning practice on Wall Street in 1975 he has concentrated in estate planning and retirement distribution planning. Formerly Chair of the Estate Planning and Employee Benefits Departments of the Providence firms Adler, Pollock & Sheehan Incorporated (1976-84) and Tillinghast Collins & Graham (1984-89), he established his solo law practice in Providence in 1990.

Steve is a member of the Rhode Island and Massachusetts Bars. He is a **Fellow of the American College of Trust and Estate Counsel**, one of eleven Rhode Island attorneys so designated. In January 2011 he was listed as a **Five-Star Wealth Manager™ (Estate Planning Attorney Category)** in **Rhode Island Magazine** and its sister publication **Rhode Island Business Quarterly**.

He has lectured extensively at local, regional and national seminars on the subjects of estate planning and retirement distribution planning. He is the principal author of the chapter on *Estate, Gift and Generation Skipping Transfer Taxes* in the Massachusetts Continuing Legal Education Institute's forthcoming treatise *Rhode Island Estate Planning*.

Steve resides in Bristol, RI with his wife of 42 years, Ellie. They have three grown children, Erin, Brendan and Caitlin.

Maria H. ("Mia") Lahti

Mia, a member of the Massachusetts, Rhode Island and Illinois Bars, has practiced law since 1988, representing clients in a broad range of matters, including estate planning, elder law, probate and estate administration, trusts and wills, social security disability, long term care and nursing home planning and guardianships. Her special concentration is in helping elders remain in their communities as long and comfortably as possible.

Mia formerly worked as a Legal Aid Attorney, representing indigent and low income clients in family law and public benefits matters. While living in Chicago, she represented families with disabled dependents in the areas of special education, guardianships, and estate planning.

She obtained her law degree from Suffolk University Law School in Boston. She is also a graduate of Vassar College where she majored in Political Science and Italian, and is fluent in Italian.

Mia is married to Michael Lahti. They reside in South Dartmouth with their three children, David, 15, Martha, 13, and Holly, 9. Mia and Michael also have a vacation home in Matunuck, RI.

Temporary Tax Relief Act of 2010 - Estate Planning Provisions

- For those who die in 2011 or 2012, the federal estate tax exemption is increased to \$5 million, and the maximum estate tax rate is 35%.
 - For those who died in 2010, the executor may choose between (i) an estate tax with a 35% rate, a \$5 million exemption, and a step-up of income tax basis to date of death values, or (ii) no estate tax and a limited step up of income tax basis at death. The decision can have significant impact on estate tax liability as well as future income tax liability. Its consequences and mechanics should be reviewed in advance with your tax advisors.
 - The generation-skipping transfer tax exemption is also increased to \$5 million for transfers in 2011 and 2012 with a maximum tax rate of 35%. For 2010, the exemption is also \$5 million, but the tax rate is 0%.
 - The federal gift tax exemption was \$1 million for 2010, but beginning in 2011 it is increased to \$5 million with a maximum tax rate of 35%.
 - Thus beginning in 2011 there is a "reunification" of the federal gift tax, estate tax and generation-skipping transfer tax, i.e. a \$5 million exemption and a 35% maximum tax rate; and all three exemptions are subject to inflationary adjustments beginning in 2012.
 - The Temporary Tax Relief Act also introduces a new concept for married couples: portability of the first spouse's unused exemption to the surviving spouse under an election to be made by the first spouse's executor on a timely filed federal estate tax return, effectively allowing the surviving spouse's estate to have a federal estate tax exemption of up to \$10 million.
- Failure to shelter at least the amount of the state death tax exemption (Rhode Island: \$850,000; Massachusetts: \$1 million) in a so-called "family" or "credit shelter" or "bypass" trust will result in significant state death taxes at the second spouse's death.
 - Allocating some or all of the first spouse's assets to a family or credit shelter or bypass trust can generate significant family income tax splitting savings and can shelter assets from creditors, predators and divorces.
 - Because portability does not apply to the generation skipping transfer tax exemption, those who want to shelter the maximum amount from generation-skipping transfer taxes in order to save death taxes for their grandchildren and later generations are well advised to continue to use family or credit shelter or bypass trusts.

Portability can prove to be a wolf in sheep's clothing, for the following reasons:

- Failing to shelter the federal estate tax exemption in a so-called "family" or "credit shelter" or "bypass" trust or "Q-Tippable" marital trust means that any growth in the estate of the first spouse to die between the first and second death will be included in the surviving spouse's estate.

You may have noticed that we are referring to this new law as the "Temporary" Tax Relief Act of 2010. That's because everything set forth above is scheduled to "sunset" on January 1, 2013 unless our federal lawmakers act to extend the provisions or otherwise modify them. As 2013 approaches, we could be right back to the possibility of "sunsetting" back to \$1 million federal gift and estate tax exemptions, a \$1.3 million generation-skipping transfer tax exemption (indexed for inflation) and a 55% maximum transfer tax rate for each of the above taxes.

One significant opportunity for those with large estates (over \$5 million): since we know there will be a \$5 million federal gift tax exemption in 2011 and (subject to an inflation adjustment) 2012, and since there is no Rhode Island gift tax and no Massachusetts gift tax, consider making large gifts, i.e. in excess of what used to be a one million-dollar federal gift tax exemption, outright or in trust, to younger generation beneficiaries.

Lahti, Lahti & O'Neill provides a complimentary estate plan review to clients whose plans have not been reviewed in at least three years. Call or e-mail to schedule an appointment, and then complete the straightforward **Estate Planning Update Questionnaire** which we'll provide you, and get the completed questionnaire to us before we meet.

And please continue to refer friends, colleagues, family, customers, clients – heck, enemies -- for a free initial estate plan consultation. ♦♦♦

Steve O'Neill

Estate Planning: It's More than Federal Taxes

At Lahti, Lahti & O'Neill, LLC we help clients use, preserve, protect and transfer their wealth responsibly to provide for themselves and their loved ones and to perpetuate their goals, dreams and values for future generations. If your estate exceeds \$1 million, you still may have federal estate, gift and generation-skipping transfer tax issues. If your estate exceeds your state death tax exemption, you may have state estate tax issues. If you are uncertain about the impact of such taxes on your estate plan, contact us for a consultation. But even if you are confident that estate, gift and generation-skipping transfer taxes are not a concern, you should call or email and come in for a review if:

- It has been more than three years since your estate plan has been reviewed;
- You or your beneficiaries have had a significant change in family or business or employment or health or other personal circumstances;
- You haven't updated your incapacity documents (General Durable Power of Attorney; Healthcare Power or Proxy; Living Will; Authorization to Release Protected Medical Information) in several years;
- Your relationship with any of your trustees, executors or agents has changed;
- You are uncertain whether your assets are optimally positioned to minimize the possibility of Probate Court proceedings upon death or incapacity. ♦♦♦

What is Elder Law?

Michael T. Lahti

Elder Law is an amalgam of several areas of law, possibly due to the varied backgrounds of those practicing in this field. Many began as social workers or teachers, or worked for Legal Services on behalf of the indigent, are thus well connected in the social services community, and can identify for their clients the best providers of elder services. Others have a litigation background and thus apply their skills in advocating for our elder population in the areas of discrimination and nursing home mistreatment. Still others, like me, have a tax and estate planning background, and specialize in helping clients navigate the complex and interrelated web of state and federal Tax and Medicaid laws.

The only American Bar Association approved designation for lawyers who work in this field is that of **Certified Elder Law Attorney**, or **CELA**, conferred by the **National Elder Law Foundation**. Certification requires a demonstration of competence and experience in Health and Personal Care Planning (medical powers of attorney, living wills, and health care declarations); Pre-Mortem Legal Planning (wills, trusts, durable general or financial powers of attorney, real estate, gifting, and the financial and income, estate and gift tax implications of any proposed action); Fiduciary Representation (advice to executors, personal representatives, attorneys-in-fact, trustees, guardians, conservators, representative payees); Legal Capacity Counseling; Public Benefits Advice; Special Needs Counseling (planning, drafting and administration of special/supplemental needs trusts); Advice on Insurance Matters (analyzing and explaining the types of insurance available, such as health, life, long term care); Resident Rights Advocacy; and Litigation and Administrative Advocacy in connection with any of the above matters.

I have been fortunate enough to have been designated a **Certified Elder Law Attorney**. I am most capably supported by my "life and law partner," Mia Lahti, whose considerable experience in this field is detailed in her biographical sketch on Page 2, and by Senior Paralegal Laurie LaRoche, who has more than 15 years' experience in an elder law practice. We all bring enthusiasm, experience and empathy to this most personally rewarding area of law practice. ♦♦♦

Pursuant to U.S. Treasury Department Regulations, we are required to advise you that, unless otherwise expressly indicated, any federal tax advice contained in this communication is not intended or written to be used for, and may not be used for, the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.

This Newsletter should not be construed as legal advice but rather as general guidance on matters as to which you may wish to consult with a qualified professional advisor.