

Summer 2019 Newsletter



IN THE SPOTLIGHT

"I love Knoxville and I am thankful for all the amazing opportunities provided by our community."
-- Jason E. Legg, Esq.

IN THE LAW

Governor Lee recently approved updates to Tennessee Law regarding wills, trusts, and estates. Are you affected?

IN THE FIRM

We recently held a seminar on updates to the FLSA. Do you know what they are? Is your business prepared for these changes?

IN THE COMMUNITY

On June 21st, we held our annual in-firm ice cream social to begin fundraising for our program that donates books to underprivileged kindergarteners.

We are kicking off our seventh year of the program in September, and cannot wait for the first book distribution.

You can read more about the program and how to donate on our [Christenberry Kids](#) page.



In the Law: Recent Changes to Trust and Estate Laws in Tennessee

In May, Governor Lee signed two new bills which made several changes to Tennessee law in the areas of wills, estates, and trusts. Some key changes are outlined below.

For years, Tennessee has allowed for the creation of "directed" trusts, meaning that the grantor of a Tennessee trust can appoint a person as a "trust protector"--also known as a "trust advisor"--with the power to "direct" the trustee. Powers commonly granted to trust protectors include the power to direct investment and distribution decisions, to review and approve a trustee's accounting, and to remove and replace a trustee. Grantors establishing Tennessee trusts often utilize the office of trust protector by appointing a family member to oversee the actions of a corporate trustee.



Michael R. Crowder, Esq.

Also By:

Is Tennessee's Income Taxation of Trusts Constitutional?

As of Governor Lee's signing, new legislation now allows a "special purpose entity"—either an LLC or corporation—to act as trust protector of a trust where a Tennessee corporation serves as trustee. This new law could allow a trust to avoid taxation by states that tax trusts based on the residency of the trust fiduciary. For example, if the grantor of a trust with a Tennessee corporate trustee wants to appoint an out-of-state family member as trust protector, they may avoid taxation in that family member's state of residence by establishing an LLC as a special purpose entity in Tennessee. The out-of-state family member would be the sole member of the LLC, and the grantor would appoint the LLC as the trust protector instead of the family member.

Another benefit of this new law is that it provides liability protection to those persons interested in serving as trust protector. Since the special purpose entity is organized as either an LLC or a corporation, the members, owners, or officers of the entity will be granted the same general liability protection from the entity's operations as is otherwise the case with LLCs and corporations.

Other new laws that Governor Lee signed into effect include:

1. A law exempting from recording tax those deeds that effectuate the distribution of real property to trust beneficiaries by the trustee of a testamentary trust or revocable living trust.
2. A law allowing the grantor of a trust to direct the disposition of tangible personal property by separate memorandum (a practice commonly employed, but never codified).
3. A law providing that the modification of an irrevocable trust by a court or by consent of the beneficiaries is not prohibited by a spendthrift clause or provision in the trust that prohibits amendment or revocation of the trust.

If you have any questions or concerns about how these recent changes may impact your estate plan, or about estate planning generally, please **contact us** at **(865) 546-7311**.

Doctors vs. Lawyers Trivia Night 2019

On June 20th, a team of KM attorneys, law clerks, and spouses participated in the second edition of this fundraiser. After last year's fourth place finish...we've decided to just not share where we ended up this year!

We're proud to have helped raise more than \$63,000 for the clinic all while having a great time. We can't wait for next year!



Kennerly Montgomery Seminar Series

On May 22nd, our firm hosted clients and friends to discuss new developments and changes in the world of employment law and employee benefits. For those who missed it, here's a brief recap from one of the presenters:

Upcoming Seminar Topic

Family Medical Leave Act (FMLA)

Date

TBD | Mid-Fall

We will let you know soon! Make sure you're on our mailing list for any future seminars and updates.

Retirement Plan Corrections

But while you wait for more information,

The IRS recently made changes to its Employee Plans Compliance Resolution System ("EPCRS"), which governs the correction of errors in retirement plans. Among other changes, the IRS made it easier to self-correct certain errors without having to file a Voluntary Correction Program ("VCP") application. The revised EPCRS now permits self-correction of errors involving plan loans, plan provisions that do not meet IRS requirements, and retroactive amendments to conform the terms of the Plan to its actual operation, so long as certain requirements are met.

If a VCP application is required to correct the error, effective April 1, 2019, the application must be submitted online through the www.pay.gov website. Additionally, employers can no longer pay the IRS VCP user fee, based on plan assets, with a check. Fees must be paid via an ACH transfer from a bank account or by credit or debit card.

Affordable Care Act (ACA)

Although Congress killed the Individual Mandate Penalty effective Jan. 1, 2019, the ACA requirements still apply to employers. Large employers (50+ employees) must continue to offer health insurance to full-time employees or pay significant penalties. Employers have begun to receive large penalty assessment letters for failing to comply with the Employer Mandate. The large assessments are often the result of reporting errors, so employers should review the assessments carefully and timely respond to correct any discrepancies.

check out our [articles](#), [publications](#), and [previous seminars](#).



Kathy D. Aslinger, Esq.

Also By:

Tips and Best Practices for Plan Sponsors and Fiduciaries of Health and Welfare Plans

Fair Labor Standards Act

In March 2019, the Department of Labor issued proposed regulations that would increase the salary threshold for exempt employee status from the current salary base of \$455/wk (\$23,660 per year) to \$679/wk (\$35,308 per year).

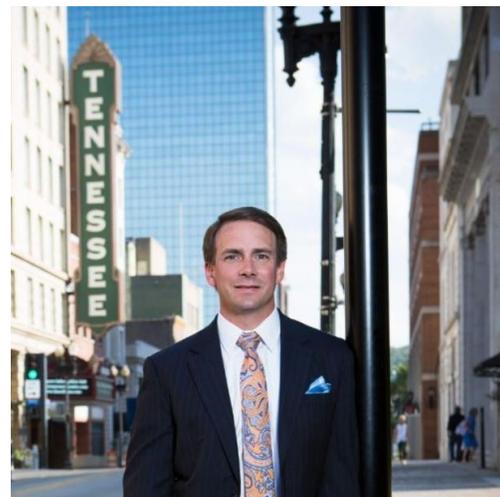
If the proposal is finalized, it will be the first increase since 2004. The Obama Administration attempted to increase the salary threshold to \$970 per week (\$47,476 per year) in 2016, but the Court intervened. The more modest, recent proposed increase is expected to be finalized soon to become effective in early 2020.

Questions? Contact us at (865) 546-7311.

In The Spotlight: Jason E. Legg, Esq. Meet One of the Firm's Newest Attorneys

What role did your family have in making you great at what you do?

My parents have been amazing role models, teaching me the value of hard work, dedication, and perseverance. My father, a captain in the U.S. Army during Vietnam, served as a paratrooper in the 82nd Airborne. Upon completion of his tour of duty, he graduated from UT Law School. He went on to become one of the top business litigation attorneys in Knoxville, building a practice that endured for over 40 years. My mother has also been extremely successful in her own right. During the day, she raised two children and worked full time, while at night she attended classes at UT, ultimately obtaining her Master's and Ph.D.



My wife and I have triplets—two girls and a boy. We have been blessed with a close, tight-knit family and this is one of the greatest joys of my life. My family provides a strong foundation of the love, support, encouragement, and strength I need in order to fight hard for my clients on a daily basis.

What do you like most about the practice of law?

When clients hire me, they are typically facing serious physical, emotional, or financial issues. For many, the legal world is a confusing, frustrating maze. I find it extremely gratifying to help my clients navigate their difficult times and the legal process. I have witnessed how the judgments and settlements I have obtained for my clients have brought about positive change in their lives. I enjoy getting to know my clients and interacting with them on a personal level. I believe this helps me understand their individual needs and goals. For over twenty-two years I have provided strong, aggressive representation that has enabled me to bring resolution to their pressing legal problems.

Favorite Quote:

"Never give in—never, never, never, in nothing great or small, large or petty, never give in except to convictions of honour and good sense."

Winston Churchill

What types of community-based, civic, or other non-profit activities do you participate in?

I believe that a strong education is an essential building block to later success in life. I have served with non-profit organizations established to support, promote, and enhance educational opportunities. I recently helped found the Bearden Middle School Foundation and served as its president for two years. I have also served as the Sequoyah Elementary Foundation president and on the board for several years.

I grew up in Knoxville and it has been an amazing place to live, work, and raise a family. I love Knoxville and I am thankful for all the amazing opportunities provided by our community. I find it extremely rewarding to give back to the community by serving as a board member of the Public Building Authority (PBA). The PBA develops, constructs, and manages numerous buildings throughout the City and County—such as the World's Fair Park and Old Knox County Courthouse.

I give back to the legal profession by serving on the Tennessee Trial Lawyers Association and Tennessee Bar Foundation Grant Review Committee. I was recently admitted to the prestigious Hamilton Burnett Inns of Court, which is designed to improve the skills, professionalism, and ethics of the bench and bar.

Any last thoughts?

I am honored to practice with Kennerly, Montgomery & Finley, a firm with a long history of dedication and devotion to excellence in the law. I will strive to continue the firm's reputation and seek to expand the firm's outreach.

Learn more about Jason [here](#).

PRACTICE AREAS

Personal Injury

Social Security & Disability

Workers' Compensation

Business Litigation

