

HARMONY OF LEGACY: A 12-DAY ESTATE PLANNING CELEBRATION (DAYS 1 TO 4)

Day 1: A Partridge in a Pear Tree = The Foundation of Your Estate Plan

Welcome to our “12 Days of Christmas” Estate Planning Series. On the first day, let’s start with the basics of how to protect your family tree—or those outside your family tree—with the solid foundation of an estate plan. Whether you are single or married, with children or without, everyone should have an estate plan to assist with their affairs while living and to pass their assets upon their death. What type of plan you should have depends upon a variety of factors and will involve different legal documents. Find out more in our article [What is an Estate Plan?](#)

Day 2: Two Turtle Doves = Planning for Couples

On the second day of Christmas, we focus on couples. People are often surprised to learn that Wisconsin does not recognize common law marriages. To protect a non-spousal partner, estate planning is essential. For married couples, Wisconsin is a community property state, which generally means that all debt and assets acquired or earned during marriage belong to both spouses, regardless of title. There are some exceptions and planning can be done before or after a marriage to protect assets for wealth management, divorce, and estate purposes. Our article [A Brief Overview of Wisconsin’s Marital Property System](#) provides additional information.

Day 3: Three French Hens = Trusts

Three French hens symbolize trusts and protecting your nest egg for yourself and future generations. There are many types of trusts to cover varying needs. A revocable trust is the centerpiece of many estate plans and provides flexibility to provide for yourself and your loved ones. In the spirit of holiday giving, you may decide to include a [Charitable Remainder Trust](#) in your estate plan, or your estate plan may benefit from some specialized trusts such as a [Spousal Lifetime Access Trust](#) or an [Irrevocable Income Only Trust](#).

Day 4: Four Calling Birds = Wills

On the fourth day of Christmas, we address the best-known aspect of an estate plan: the will. Many estate plans use a “pour over will,” which calls out to the revocable trust and pours any estate assets into the trust. In other situations, a simple will without a trust may be all you need to distribute your assets. Regardless of the type of will, it must be properly created, and state laws differ on what is needed to create a valid will. Wisconsin law does not permit a “holographic will”—a will that is handwritten, signed, and dated by the person making it.

Some states do permit such wills, but the recent [Aretha Franklin](#) case demonstrates the disputes that can arise from holographic wills.

Stay tuned for more valuable insights in the upcoming days as we continue our “12 Days of Christmas” estate planning series!

TAX AND WEALTH ADVISOR ALERT-IRS ANNOUNCES CHANGES TO ESTATE AND GIFT TAX EXEMPTIONS FOR 2024

The IRS allowed amounts of the federal gift, estate, and generation-skipping transfer tax exemptions will materially increase in 2024. With exemptions reaching historically high levels, this presents a golden opportunity for strategic and tax-free gifting. In this post, we'll explore the key changes and opportunities you should consider for your financial planning.

Exemption Amount Increase:

Starting in 2024, the gift and estate tax exemptions will increase to \$13,610,000, allowing individuals to transfer significant assets during their lifetime or at death without incurring gift or estate tax. For married couples, the combined exemption rises to \$27,220,000. If you have already maximized your lifetime gifts under current limits, additional tax-free gifts of up to \$690,000 per individual or \$1,380,000 per married couple can be made in 2024.

GST Tax Exemption Boost:

The GST tax exemption is also set to increase to \$13,610,000 (\$27,220,000 per married couple) in 2024. This opens doors for strategic gifts to trusts, benefiting grandchildren or more remote descendants, and leveraging the increased GST exemption.

Annual Exclusion Amount Rise:

In addition to the significant increases in exemption amounts, the annual exclusion amount is climbing to \$18,000 per recipient (or \$36,000 for married couples splitting gifts) in 2024. This means tax-free gifts can be made to an unlimited number of recipients. Furthermore, the special annual exclusion from gift tax on gifts to a non-U.S. citizen spouse will see an increase to \$185,000 in 2024.

Maximizing Gifts in 2024:

The year 2024 presents exceptional opportunities for gift planning, considering the increased exemptions and the potential for depressed asset values in certain sectors. As the current exemptions are scheduled to be halved at the end of 2025 without further congressional action, there's a limited window to take advantage of these higher limits.

Action Steps for 2023:

As the end of the year approaches, don't forget that the 2023 annual exclusion amount is \$17,000 per recipient. Make sure you make your annual exclusion gifts before December 31, 2023.

To navigate these changes and make informed decisions about your gift and estate planning, reach out to our [Tax and Estate Planning Team](#). We can provide personalized insights into how these changes may impact you.

SUPER LAWYERS RECOGNIZES 28 O'NEIL CANNON ATTORNEYS

Each year, *Super Lawyers* surveys the State of Wisconsin's 15,000 attorneys and judges, seeking the State's top attorneys. Recently, *Super Lawyers* published its lists for 2023, which include the Top 10 Attorneys in Wisconsin, Top 50 Attorneys in Wisconsin, Top 25 Attorneys in Milwaukee, Super Lawyers (consisting of the top 5% of attorneys in Wisconsin), and Rising Stars (consisting of attorneys who are 40 years old or younger or who have been in practice for 10 years or less).

Twenty-nine of our attorneys were recognized by *Super Lawyers*, which has referred to the firm as "the Milwaukee mid-sized powerhouse." Those attorneys are the following:

- Nick Chmurski:
 - Rising Star
- Doug Dehler:
 - Super Lawyer
- Jim DeJong:
 - Super Lawyer
- Seth Dizard:
 - Top 50 Attorneys in Wisconsin
 - Top 25 Attorneys in Milwaukee
 - Super Lawyer
- Pete Faust:
 - Super Lawyer

- John Gehringer:
 - Super Lawyer
- Joseph Gumina:
 - Super Lawyer
- Jessica Haskell:
 - Rising Star
- Mike Kennedy:
 - Rising Star
- Grant Killoran:
 - Super Lawyer
- Dean Laing:
 - Top 10 Attorneys in Wisconsin
 - Top 50 Attorneys in Wisconsin
 - Top 25 Attorneys in Milwaukee
 - Super Lawyer
- Trevor Lippman:
 - Rising Star
- Greg Lyons:
 - Super Lawyer
- Patrick McBride:
 - Super Lawyer
- Britany Morrison:
 - Rising Star
- Joe Newbold:
 - Super Lawyer
- Erica Reib:
 - Rising Star
- Chad Richter:
 - Super Lawyer
- Ryan Riebe
 - Rising Star
- John Schreiber:
 - Super Lawyer
- Jason Scoby:
 - Super Lawyer
- Steve Slawinski:
 - Super Lawyer
- Kelly Spott:
 - Rising Star
- Christa Wittenberg:
 - Rising Star

Super Lawyers is a national rating service that rates attorneys in all 50 states. The selection process utilized by *Super Lawyers* is multi-phased and includes independent research, peer nominations, and peer evaluations. One court recently had this to say about *Super Lawyers*:

“[T]he selection procedures employed by [*Super Lawyers*] are very sophisticated, comprehensive and complex. It is abundantly clear . . . that [*Super Lawyers* does] not permit a lawyer to buy one’s way onto the list, nor is there any requirement for the purchase of any product for inclusion in the lists or any quid pro quo of any kind or nature associated with the evaluation and listing of an attorney or in the subsequent advertising of one’s inclusion in the lists.”

We are proud to be one of the few firms in Wisconsin that had more than 50% of its attorneys receive recognition by *Super Lawyers*.

O’NEIL CANNON RANKED BY BEST LAW FIRMS® IN 2024

O’Neil Cannon has been recognized in the 2024 edition of Best Law Firms, ranked by *Best Lawyers*, regionally in 16 practice areas:

- Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law
- Business Organizations (including LLCs and Partnerships)
- Commercial Litigation
- Construction Law
- Corporate Law
- Employment Law - Management
- Litigation - Bankruptcy
- Litigation - Insurance
- Litigation - Labor and Employment
- Mergers and Acquisitions Law
- Personal Injury Litigation - Plaintiffs
- Product Liability Litigation - Defendants
- Real Estate Law
- Securities / Capital Markets Law
- Tax Law
- Trusts and Estates Law

Firms included in the 2024 Best Law Firms list are recognized for professional excellence based on ratings from clients and peers.

TAX REFORM BILL PASSES WITH ADVOCACY FROM BRITANY MORRISON AND NANCY WILSON

Britany Morrison and Nancy Wilson, as directors of the Wisconsin State Bar's Taxation Law Section Board, advocated for the inclusion of the Internal Revenue Code Section 1202 stock provisions in Assembly Bill 406, now 2023 Wisconsin Act 36. The Taxation Law Section Board collaborated with its government liaison and lobbyist, who then successfully championed the proposed change. Act 36 rectifies Wisconsin's tax statute, bringing it in line with the federal guidelines regarding the retroactive date for the 100% capital gain exclusion under IRC Section 1202.

The revised legislation aligns Wisconsin's statutes with the federal rules concerning the exclusion of capital gains from the sale of shares of qualified small businesses, commonly known as 1202 Stock. It allows for a 50% exclusion rate upon sale for stock acquired after August 10, 1993, and before February 17, 2009; a 75% exclusion rate for stock acquired after February 17, 2009, and on or before September 27, 2010; and a full 100% exclusion for stock acquired after September 27, 2010. This marks a significant departure from Wisconsin's previous limitation of a maximum 50% exclusion.

Thanks to the entire Section Board for helping to shape the future of taxation in Wisconsin.

THE WILAW QUARTERLY NEWSLETTER

Newsletter Article Highlights:

- An Introduction to Earnouts for the Seller of a Registered Investment Advisor
- Understanding the "Step-Up in Tax Basis": A Summary of IRC Section 1014 and Double Stepped-Up Basis for Marital Property in Wisconsin
- Dust Off Those Handbooks-The NLRB Has Changed Its Rules (Again)
- Ex-Attorney Convicted of Stealing More Than \$800,000 from Elderly Victim with Dementia

Firm News:

- 19 O'Neil Cannon Lawyers Selected as 2024 Best Lawyers; Another 4 Named Best Lawyers: Ones to Watch
- Christa Wittenberg Featured on State Bar Podcast

Click the image below to read more.



IRS PREPARING FOR POTENTIAL GOVERNMENT SHUTDOWN: WHAT YOU NEED TO KNOW

As we approach the end of September, the possibility of a government shutdown looms large, and the Internal Revenue Service is making preparations for the potential impact on its operations. Below is a summary of the IRS's contingency plans and what taxpayers can expect in the event of a government shutdown.

Government Shutdown: A Looming Threat

If Congress fails to reach a short-term agreement to fund the government by the end of September, a government shutdown is likely to occur. The IRS, like other federal agencies, is not immune to the consequences of such an event.

IRS Contingency Plans

To mitigate the potential disruption caused by a government shutdown, the IRS has been developing contingency plans. While it was initially believed that the agency could continue its operations thanks to funds allocated through the Inflation Reduction Act, recent reports indicate a change in strategy.

The National Treasury Employees Union, which represents IRS employees, has suggested that the IRS is working on a new contingency plan that includes furloughing some of its workforce. While the full scope of this plan is yet to be disclosed, it raises questions about how IRS services will be affected.

Impact on Taxpayers

So, what does this mean for taxpayers? In the event of a government shutdown, several key IRS functions may be affected:

1. Delayed Refunds: Taxpayers who file paper returns will likely experience delays in receiving their refunds. Even electronic filers may encounter delays if their returns require further processing.
2. Backlog Increase: The IRS has been grappling with a backlog of tax returns, with 2.6 million returns pending at the end of the 2023 filing season. A shutdown could exacerbate this backlog, further delaying tax processing.
3. Filing Deadlines: It's essential to note that filing deadlines for certain entities remain

unchanged. Calendar-year individuals and C corporations with filing extensions must still file their 2022 returns by October 16, and tax-exempt organizations with extensions must file by November 15. Employers must also meet their Q3 employment tax deadlines by October 31, 2023.

Uncertain Future

As the deadline for a government shutdown approaches, the situation remains uncertain. While federal agencies have backup plans in place to maintain essential services, there will undoubtedly be impacts on federal employees and the American public. In the coming weeks, taxpayers should stay informed about developments in the IRS's contingency plans and be prepared for potential disruptions to IRS services. O'Neil Cannon will continue to monitor the situation and provide updates as more information becomes available.

For questions or further information relating to the potential government shutdown's impact on the IRS, please contact [Britany E. Morrison](#).

CHRISTA WITTENBERG FEATURED ON STATE BAR PODCAST

[Christa Wittenberg](#), a shareholder and board member at O'Neil Cannon, was recently a guest on *Bottom Up*, a podcast through the State Bar of Wisconsin focused on the challenges, interests, and opportunities available to lawyers. The podcast is intended to be a resource for attorneys establishing their practice in Wisconsin and beyond. In the podcast episode, Wittenberg discusses her career path, her new role as a director at the firm, the positive work environment and culture at O'Neil Cannon, and her involvement in the community. Listen and enjoy the full podcast [here](#).

EMPLOYMENT LAWSCENE ALERT: DUST OFF THOSE HANDBOOKS-THE NLRB HAS CHANGED ITS RULES (AGAIN)

Because the incumbent President appoints members of the National Labor Relations Board (NLRB), the NLRB's decisions often reflect the policy choices of that President's political

party. Generally, when a Democrat holds office, the NLRB's decisions are more employee and union-friendly, and when a Republican holds office, the NLRB's decisions are more management-friendly. An issue that the NLRB has consistently gone back and forth on, depending on the incumbent President, is the standard for evaluating employee handbooks and establishing what rules and policies are acceptable under Section 7 of the National Labor Relations Act (NLRA). Under Section 7 of the NLRA, employees have rights of organization and collective bargaining, including the right to discuss wages, hours, and other terms and conditions of employment.

From 2004 to 2017, under the *Lutheran Heritage* standard, the NLRB took the position that, if an employee could reasonably construe a rule or policy to prohibit activities protected by Section 7, that the rule or policy violated Section 7. This guidance emphasized that employer's rules and policies needed to be narrowly tailored to avoid violating Section 7. Then, in 2017, the NLRB decided *Boeing*, which held that a facially neutral work policy was lawful when the potential adverse impact on an employee's exercise of protected rights was outweighed by justifications associated with the policy.

Now, the NLRB has changed the standard back to something that "builds on and revises" the *Lutheran Heritage* standard. On August 2, the NLRB set an employee and union-friendly standard for rules and policies in its *Stericycle Inc.* ruling. Under the new standard, a workplace rule or policy is presumptively unlawful if an employee would reasonably interpret the rule "to chill employees from exercising their Section 7 rights." These rights include discussing wages and terms of employment with coworkers, appealing to the public about working conditions, organizing to improve working conditions, and supporting or forming a union. That presumption of unlawfulness may be rebutted by the employer "by proving that the rule advances a legitimate and substantial business interest and that the employer is unable to advance that interest with a more narrowly tailored rule." However, this is likely to be a high burden for employers to meet.

Rules and policies most at risk of being interpreted as chilling an employee's ability to exercise his or her Section 7 rights include those regarding the following issues: social media, audio and video recording, cell phone use, personal conduct, conflicts of interest, and confidentiality of harassment complaints and investigations. It is important to note that facially neutral rules may be found unlawful and that the employer's intent in creating the rule is immaterial; all rules are viewed through the employees' lens and what they could reasonably interpret.

Another important aspect of the new standard is that the NLRB decided that it is to be applied retroactively, meaning it not only applies to workplace policies going forward but also workplace policies already in existence. Therefore, it is crucial that employers reevaluate their current employee handbooks and other workplace rules and policies to ensure that they do not violate the standard set forth in *Stericycle*. Because the NLRA applies to non-union

companies, all employers should be aware of the new standard and ensure that their handbooks and policies comply with the *Stericycle* decision. As always, O'Neil Cannon is here for you. We encourage you to reach out with any questions, concerns, or legal issues you may have.

19 O'NEIL CANNON LAWYERS SELECTED AS 2024 BEST LAWYERS; ANOTHER 4 NAMED BEST LAWYERS: ONES TO WATCH

We are pleased to announce 19 of our lawyers have been included in the 2024 Edition of *The Best Lawyers in America*, and an additional four have been selected as 2024 *Best Lawyers: Ones to Watch*.

The following are the O'Neil Cannon lawyers named to the 2024 lists:

Best Lawyers in America

- Douglas P. Dehler - Litigation - Insurance
- James G. DeJong - Corporate Law, Mergers and Acquisitions Law, and Securities / Capital Markets Law
- Seth E. Dizard - Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law and Litigation - Bankruptcy
- Peter J. Faust - Corporate Law and Mergers and Acquisitions Law
- John G. Gehringer - Commercial Litigation, Construction Law, Corporate Law, and Real Estate Law
- Joseph E. Gumina - Employment Law - Management and Litigation - Labor and Employment
- Dennis W. Hollman - Corporate Law and Trusts and Estates
- Grant C. Killoran - Commercial Litigation and Litigation - Health Care
- JB Koenings - Corporate Law
- Dean P. Laing - Commercial Litigation, Personal Injury Litigation - Plaintiffs, and Product Liability Litigation - Defendants
- Gregory W. Lyons - Commercial Litigation and Litigation - Insurance

- Patrick G. McBride – Commercial Litigation
- Joseph D. Newbold – Commercial Litigation
- Chad J. Richter – Business Organizations (including LLCs and Partnerships) and Corporate Law
- John R. Schreiber – Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law and Litigation – Bankruptcy
- Jason R. Scoby – Corporate Law
- Steven J. Slawinski – Construction Law

Best Lawyers: Ones to Watch

- Trevor C. Lippman – Litigation – Trusts and Estates
- Erica N. Reib – Labor and Employment Law – Management and Litigation – Labor and Employment
- Kelly M. Spott – Trusts and Estates
- Christa D. Wittenberg – Commercial Litigation

About Best Lawyers

Best Lawyers has published their list for over three decades, earning the respect of the profession, the media, and the public as the most reliable, unbiased source of legal referrals.

Best Lawyers: Ones to Watch recognizes associates and other lawyers who are earlier in their careers for their outstanding professional excellence in private practice in the United States.

Lawyers on *The Best Lawyers in America* and *Best Lawyers: Ones to Watch* lists are divided by geographic region and practice areas. They are reviewed by their peers on the basis of professional expertise, and they undergo an authentication process to make sure they are in current practice and in good standing.