MATTIONI

COUNSELORS AT LAW

Newsletter

Volume 9 *www.mattioni.com* *January, 2013*

Preparing for and Recovering from a Natural Disaster - (legally speaking)

By Stephen Galati, Esq.

When a natural disaster such as Hurricane Sandy strikes, lives will be put in danger and residents will face the prospect of wrecked and flooded homes and vehicles. Fortunately, insurance should cover much of the repair cost. However, it is a good idea to periodically review and update your insurance policy so that you understand your insurance coverage and have in place the insurance you need. In particular, it is helpful to know whether the coverage for wind and property damage is separate from flood damage, whether medical expenses are included, and if your home cannot be lived in whether your policy will pay for alternate living arrangements and, if so, how much.

Generally, homeowners' insurance will not cover damage from floods. A separate flood insurance policy is needed. The National Flood Insurance Program typically provides such coverage. Maximum coverages are up to $250,000 for the building and up to $100,000 for its

In this Newsletter

..... CONTINUED ON PAGE 2

contents. Private supplemental flood insurance may also be purchased with higher limits. Coverage for the "building" includes the insured building and its foundation, the electrical and plumbing systems, central air-conditioning equipment, furnaces and water heaters, refrigerators, stoves, built-in appliances such as dishwashers, and permanently installed carpeting over unfinished flooring. Coverage for the "contents" includes clothing, furniture, electronic equipment, curtains, portable and window air conditioners, portable microwaves and dishwashers, carpeting that is not already included in property coverage, and washers and dryers, among other items inside the home.

Items generally not covered by NFIP insurance include damage caused by moisture, mildew, or mold that could have been avoided by the property owner, property and belongings outside of an insured building such as trees, plants, wells, septic systems, walks, decks, patios, fences, seawalls, hot tubs, and swimming pools. NFIP insurance does not cover living expenses such as temporary housing. Coverage for basements, crawl spaces, and the like is generally limited.

There are actions a resident can take both before and after a natural disaster to protect themselves for the damage to or loss of their property.

First: document your undamaged property. The information should include specific information about your belongings such as brand, model, purchase date, and cost. It is a good idea to take photographs of your belongings. Make sure the photographs are safely stored. If digital, it is preferable to store the photographs in on line storage so, if your computer is ruined, the photographs are not lost. If this is not possible, e-mail the photographs to a relative or friend.

Second, collect all your insurance information and keep
CONTINUED ON PAGE 3

Dawn Tancredi, Esquire

Ms. Tancredi, a shareholder with Mattioni, Ltd., was elected to serve a three-year term on the Board of Governors of the Philadelphia Bar Association in December. The Board of Governors sets forth the official policy for the Philadelphia Bar Association and provides guidance on controversial legal issues in the community.

Ms. Tancredi also serves as Co-Chair of the Philadelphia Bar Association's Zoning, Land Use and Code Enforcement Committee and serves as an elected member of the Board of Governors of the Justinian Society of Philadelphia. In addition, Ms. Tancredi was recognized by Pennsylvania Superlawyers as a 2013 Rising Star. The Pennsylvania Rising Stars list recognizes the top up-and-coming attorneys in Pennsylvania who are 40 years old or younger or who have been practicing for 10 years or less. No more than 2.5 percent of lawyers in Pennsylvania are named to the Rising Stars list.

Ms. Tancredi's practice focuses on real estate issues within the greater Philadelphia area.

it in a safe place. You should have copies of your policies, declaration pages, and insurance cards. Also, have 24 hour contact information for your insurance agent and company. Check to see if your insurance company has set up a special emergency hotline.

Third, notify your insurance company of damage as soon as possible. In all respects, cooperate with your insurance company. Keep records of all calls made and visits to the property.

Fourth, all property damage should be photographed and recorded before clean up. Do not discard any items before they are documented and photographed.

Fifth, review all damage with your insurance adjuster in person. After the review has been completed, submit a proof of claim that describes in detail the value of all items damaged or destroyed. Check the policy to see if there is a time requirement within which the proof of claim must be filed.

Finally, protect yourself from home repair fraud. Check to see if the contractor is licensed and registered with the State. Check references. Check with the Better Business Bureau to see if any complaints have been filed. Be concerned if the contractor is asking for up front money for repairs. If the contractor says he needs money to purchase supplies, go with the contractor and pay the supplier directly.

In both Pennsylvania and New Jersey, it is a violation of the unfair claims settlement practices acts if an insurance company does not, within 10 working days, acknowledge the receipt of the notice unless payment is made within that period of time.

In most instances, the insurance company will pay the

CONTINUED ON PAGE 4

Stephen J. Galati, Esquire is a Shareholder with the law firm of Mattioni, Ltd. He is licensed to practice law in Pennsylvania and New Jersey where he practices maritime, insurance and transportation law. He can be contacted at sgalati@mattioni.com or 215-629-1600.

OFFICES

PENNSYLVANIA
399 Market Street, Suite 200
Philadelphia, PA 19106
Telephone (215) 629-1600
Fax (215) 923-2227

NEW JERSEY
1316 Kings Highway
Swedesboro, NJ 08085
Telephone (856) 241-9779
Fax (856) 241-9989

claim without any significant dispute. In some cases, however, there are legitimate disputes as to an issue of what coverage is to be applied, or the value of the property destroyed. Often the office of the State Insurance Commissioner can assist with your dispute. A public adjuster or attorney can also assist with your claim.

The information in this article is general information and not legal advice. Every situation is different. Anyone with questions regarding disaster planning or related matters is urged to contact an appropriate professional for proper advice.

Estate and Gift Tax Changes for the New Year

By: Jennifer Popelack, Esquire

On January 2, 2013, Congress passed the American Taxpayer Relief Act of 2012. This law establishes the estate and gift tax exemptions and rates for the coming years and makes the fairly new concept of portability permanent. This article will take a look at the new law, and how it will impact estate planning in the future.

First, let us take a look at the prior regime of estate and gift tax. The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 ("Tax Relief Act of 2010") established the exclusion for federal

CONTINUED ON PAGE 5

PRACTICE AREAS

- ADMIRALTY AND MARITIME
- BUSINESS, FINANCE, AND CORPORATE
- CIVIL LITIGATION
- EMPLOYMENT AND CIVIL RIGHTS
- ENVIRONMENTAL
- ESTATE PLANNING, TRUSTS, AND ESTATE ADMINISTRATION
- INSURANCE
- LONGSHORE & HARBOR WORKERS' COMPENSATION ACT
- WORKERS' COMPENSATION CLAIMS
- REAL ESTATE
- PERSONAL INJURY

estate and gift tax for the years 2011 and 2012 at $5.0 million (indexed for inflation), with a tax rate of 35% on transfers over that amount. This meant that a person could pass a total of $5.0 million ($5.12 million in 2012), during their life and after their death, to beneficiaries without incurring any federal estate or gift tax. The annual gift tax exclusion of $13,000 per donee applied for the years 2011 and 2012, meaning individuals could gift up to $13,000 a year, per donee, without having to use any of their exclusion or having to file a federal gift tax return.

The Tax Relief Act of 2010 also established the concept of "portability" between spouses, which allows surviving spouses to utilize unused portions of the estate tax exclusion of their predeceased spouse. Portability eliminated the need for advanced estate planning between couples in order to preserve the unused exemptions through the use of AB Trusts (also known as Credit Shelter Trusts). Portability made it much easier to utilize both spouse's full exclusions.

What would have been the exemption and rates in 2013 had Congress failed to pass the American Taxpayer Relief Act? If Congress failed to act, the federal estate and gift tax exemption would have dropped from $5.12 million with a tax rate of 35% to $1 million with a tax rate of 55%, reverting back to the 2001 regime. Further, portability would no longer be available; once again, requiring advanced estate planning for married couples to combat heavy tax consequences.

Thankfully, at the eleventh hour, Congress passed and President Obama signed into law the American Taxpayer Relief Act of 2012, which provides more favorable exemptions and rates than what would have been faced had they failed to pass the Act. The $5 million exemption will continue into 2013. In 2013,

CONTINUED ON PAGE 6

Mrs. Popelack is an associate in the law firm Mattioni, Ltd., where she concentrates her practice in tax, business, real estate, estate planning and administration in both Pennsylvania and New Jersey.

MEET OUR ATTORNEYS

- JOSEPH F. BOUVIER
- RONALD R. DONATUCCI
- STEPHEN J. GALATI
- BRIAN T. GUTHRIE
- JENNIFER POPELACK
- EUGENE MATTIONI
- JOHN MATTIONI
- MICHAEL MATTIONI
- PHILLIP A. McFILLIN
- ANDREW H. QUINN
- STEVEN F. REILLY
- JOSEPH STRAMPELLO
- DAWN M. TANCREDI
- GEORGE R. ZACHARKOW

taxpayers will be able to pass $5.25 million, adjusted for inflation, without incurring gift or estate tax. The one significant change in the estate and gift tax regime is that the maximum tax rate has been raised from 35% to 40%. In addition, the annual gift tax exclusion will be $14,000, not $13,000, starting in 2013. Taxpayers may gift up to $14,000 per year, per donee without incurring any gift tax or without having to use any of their $5.25 million exemption.

A significant change in the new law is that "portability" was made permanent. Portability allows a surviving spouse to use the unused portion of the estate tax exclusion of their predeceased spouse. For example, if Husband dies in 2013 with an estate of $4 million, the unused $1.25 million of the exclusion can be used by Wife who dies later. Wife's estate will have an exclusion of $6.25 million, rather than $5.25 million. In order to be able to use portability, the executor of Husband's estate will have to file a federal estate tax return, within nine months of Husband's death, and make the portability election, even if no federal estate tax is owed by Husband. For this reason, it may be best to always file a federal estate tax return upon the first spouse's death and to make the portability election, even if the estates are not near the exemption limit, as you can never predict what will happen in the future.

Given the new law, it is important to review estate plans with a professional to insure you are taking advantage of the most appropriate techniques to maximize tax benefits. The new law does not make such drastic changes to the Tax Relief Act of 2010, but consideration should be given to periodically reviewing estate planning documents due to changes in the law and family status. This article provides general information regarding federal estate and gift taxes. Anyone with specific questions should seek advice from an appropriate professional.