

NEWSLETTER



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WHAT IS A LADY BIRD DEED?

By Katherine B. Albrecht

A Lady Bird Deed, also called an Enhanced Life Estate Deed, is a type of Quitclaim Deed that can be an important part of an estate plan in Michigan. It is a method for transferring real property to another individual, trust, or entity upon the death of the owner. While other states have similar estate planning practices, Michigan is only one of five states (Florida, Texas, Vermont, and West Virginia) that offer Lady Bird Deeds.

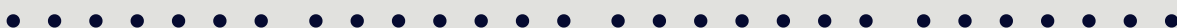
How does a Lady Bird Deed work?

In a Lady Bird Deed, an individual (also known as the Grantor) retains ownership of the property for the Grantor's lifetime, and

immediately upon the Grantor's death, the property is transferred to the designated beneficiaries, known as the Grantees. It is a simplified way to transfer real property. An important benefit to this type of deed is that it will avoid probate. The Grantor of the Lady Bird Deed has the authority to retain full control of the property while living, including the right to use, transfer, and profit from the property. The deed can also be terminated or revoked by the Grantor at any point.

What are the benefits to a Lady Bird Deed?

There are many benefits to having a Lady Bird Deed. They allow you to:



1. Avoid probate. The probate process can cost a lot of time, be extremely expensive, and can cause a lot of frustration.
2. Inexpensively provide for transfer of real property at your death.
3. Retain full control of the property during your lifetime. You can leave the property to your Grantees (children or other beneficiaries) without probate and without making them co-owners with you. This helps reduce risk to you and your property while you are living. If the Grantees go through any financial trouble such as bankruptcy or are sued, it will not affect you or the Lady Bird Deed because they do not have present ownership of your assets.
4. Transfer the property to your Grantees at your death without increase in the property tax, so long as the property is not used for commercial purposes and the Grantees are your relatives.
5. Transfer the property without incurring gift tax because the transfer occurs only upon your death.
6. Qualify for Medicaid benefits while preventing your home from being subject to Medicaid recovery at your death. If your home does go through the probate process, the State of Michigan can attempt to recoup some of the money they paid to you through Medicaid.

In what circumstances would a Lady Bird Deed not be the best option?

If you have more than one Grantee, then a Lady Bird Deed might not be the easiest or the most flexible option under those circumstances. Also, if you have more than one main property that you will be leaving to beneficiaries, then this type of deed might not be the best solution. Lady Bird Deeds do not address what you want to happen if the Grantee does not survive you.

Contact Beier Howlett Estate Planning attorneys today with any questions you have.

While there are many benefits to a Lady Bird Deed, it is not necessarily for everyone. It is important to discuss all your estate planning needs with an experienced estate planning attorney who can properly guide and counsel you through the process and so you have everything in order upon your death.◇

DIFFERENT TYPES OF BUSINESS ENTITIES IN MICHIGAN

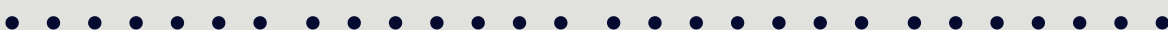
Starting your own business requires many steps, but one of the first steps is deciding your business structure. In Michigan, there are several types, ranging from simple to complex. Corporations are required by law to have a board of directors, then there are some

Michael Gibbons Named ‘Notable Leader in Labor and Employment Law’ By Crains Detroit Business



Congratulations to Mike Gibbons for being named a Notable Leader in Employment and Labor Law by Crain’s Detroit Business.

To contact Mike or learn more about him, click [HERE](#).



structures that offer more limited liability than others, and then there are some that are taxed more heavily than others. Some of the most common business entities are as follows:

Sole Proprietorship

This is the most common and straight forward business structure where one person is the owner. This business is not incorporated, which means less government involvement but also less government protection. Generally speaking, the owner pays personal income tax and self-employment tax on the business profits earned. The owner is solely financially liable for the business. Which also means that if the business needs to settle a debt or a legal claim, your personal assets may be at risk. This type of business structure offers simplicity and more control for the individual owner. The types of businesses that would be a sole proprietorship would be small businesses such as a local clothing store, photographer, or a local trade operation such as a plumber or electrician.

Partnership

This type of business structure may be ideal for businesses owned by multiple people. It is also the simplest way for more than one person to own and operate a business where all the owners share in the profits and share in the liabilities. A partnership business structure does not pay taxes on income. It passes the profits and losses to the partners. There are two different types of partnerships, general and limited partnerships. In a general partnership, the owners all share full operational control of the business as well as unlimited liability. In a limited partnership, the owners are not always involved in the day-to-day operations. They are more like silent partners in a business. An industry example for limited partnerships would be film making or real estate.

Limited Liability Company (LLC)

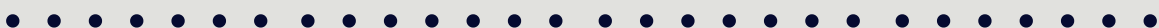
An LLC is structured in a way that offers owners the chance to limit their personal liability which protects their personal assets. It offers flexibility like a partnership does, but it provides protection of assets like a corporation does. LLCs (Limited Liability Company) are common in Michigan. They are inexpensive to start and easy to set up. You are required to file original articles of organization which should contain all the information required to form your LLC. They offer flexible management structures and do not put a limit on the number of members or owners the business may have. Typically, LLCs pay lower taxes than corporations. The profits that an LLC makes are treated as the business owners' personal income, they are not subject to corporate taxation.

C Corporation

Businesses structured as C Corporations are independent of their shareholders. They are the most prevalent type of corporation as they provide defined tax and ownership structures. They are for-profit companies that pay income tax on the profits. Funds distributed out to the shareholder as dividends can also be taxed. They can be expensive to start and require extensive record keeping, but they have strong personal liability protection for their shareholders. This means that, with limited exceptions, the shareholders are not personally responsible for business liabilities and debts. C Corporations have no limit on the number of shareholders they can have and can also offer stock options.

S Corporation

Generally speaking, an S Corporation business structure passes taxable income, credits and deductions, and losses to its shareholders.



PETER GOJCAJ NAMED to Michigan Lawyers Weekly 'Go To Lawyers' POWER LIST



Congratulations to Peter Gojcaj for being named to Michigan Lawyers Weekly 'Go To Lawyers' Power List for 2023.

Peter was named a 'Go To Lawyer' for Business Litigation in May of this year. Attorneys named 'Go To Lawyers' are recognized by their peers as top lawyers around the state in their area of practice. In 2023, Michigan Lawyers Weekly recognized the top lawyers in the areas of negligence, commercial real estate, construction law, and business litigation.

This prestigious Power List honor is comprised of the top 24 'Go To Lawyers' of 2023 selected by a Michigan Lawyers Weekly Committee.

To learn more about Peter or contact him, click [HERE](#).

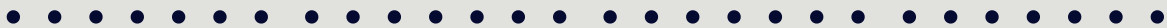
They have a special tax status with the IRS which provides them with some tax advantages. An S Corporation does not pay corporate taxes, because the profits and losses are passed through the business and reported to the shareholders personal tax returns. A business must meet certain IRS requirements to become and remain an S Corporation. Like all corporations, they must file articles of incorporation. Typically, S Corporations are smaller businesses since they cannot exceed 100 shareholders and they must hold shareholder and director meetings.

B Corporation

This business structure is also called a benefit corporation. They are a for-profit corporation, but they are also mission driven. They must receive a certification that shows they are socially and environmentally responsible and transparent. This type of corporation is taxed in the same way as a C Corporation, so they do not receive any tax breaks. Companies that focus on the planet and people as well as making a profit should be structured as B Corporations. B Lab (the company that performs the certification assessment) says that "Certified B Corporations are businesses that meet the highest standards of verified social and environmental performance, public transparency, and legal accountability to balance profit and purpose. B Corps are accelerating a global culture shift to redefine success in business and build a more inclusive and sustainable economy." Examples of B Corporations would be TOMS, Ben and Jerry's, Thrive Market, and Seventh Generation, among many others. B Corporations build trust with their consumers and have the advantage of attracting investors because of their business mission.

Nonprofits

Nonprofit business structures are mission driven. The type of mission typically benefits



education, art, charitable causes, or religious purposes. Nonprofits may or may not be tax-exempt. To form a nonprofit organization that is tax-exempt, you would need to apply for and receive a federal 501(c)(3) tax exemption. With this tax exemption, nonprofits are not required to pay taxes on the profits, but most of the profits are used to fund the nonprofit's mission.

There are advantages and disadvantages to each type of business structure. Deciding how to structure your business can be an involved process. Attorney Mike Gibbons and Peter Gojcaj specialize in business law and can help walk you through the process of structuring

your business. Some important things to determine and discuss with your attorney when deciding how to structure your business are as follows:

- **The amount of control you want over your business and its management structure.**
- **The type of liability protection you need and if you can assume it personally.**
- **The goals and financial situations of each of your business owners.**
- **The tax options, implications, and requirements of the different structures for your business.**
- **Your ability to raise capital and if you are going to pursue outside funding for your business.**
- **The long-term goals of your business.**◊



'TIS THE SEASON TO BE WARY OF THESE TOP HOLIDAY CRIMES

By Monika Koleci

The holidays are a wonderful time to come together and spend time with family and loved ones. For most, it is a time of happiness and joy, but for some, it could be a difficult season. Sometimes the holidays can bring about poor behavior and decisions. There are four criminal offenses that are heightened during the holidays.

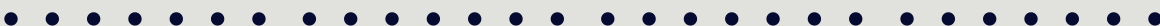
OWI (Operating While Intoxicated also referred to as a DUI which is Driving Under the Influence)

With parties and gatherings galore during the holidays, it does not come as any

surprise that OWI charges are more common during this time of the year. An OWI is considered a misdemeanor, but in some cases, depending on the circumstances, it could be considered a felony. The sequence of events are as follows if you are arrested because of an OWI:

1. Brief Detainment
2. Arraignment
3. Pre-Trial Conference
4. Trial

In Michigan, you could see the following penalties for a first offense OWI charge if your blood alcohol level is .08 to .17:



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- Up to a \$500 fine;
- Up to 93 days in jail;
- Up to 360 hours of community service;
- Up to 180 days of license suspension; and/or;
- 6 points on your driver’s license.

You could see more severe penalties if your blood alcohol level is over .17, if you have multiple OWI charges, if there are children in the car, or if someone is injured or dies because of your intoxication.

Shoplifting

Shoplifting, also known as retail fraud, is a crime that is committed often; it is one of the most common property crimes, especially during the holiday season. With busy staff and crowded stores, shoplifters get away with the crime more easily. In Michigan alone in 2022, \$2.298 billion in revenue was lost due to theft. A conviction of retail fraud is also public information.

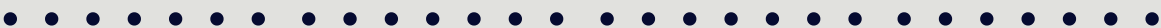
The following is a breakdown of three different retail fraud charges and their penalties:

- **Third Degree Retail Fraud: Stealing something from a store totaling under \$200. This is a misdemeanor charge which could be punishable by up to 93 days in jail.**
- **Second Degree Retail Fraud: Stealing something from a store totaling \$200-\$1,000. This is a misdemeanor charge which could be punishable by up to one year in jail and up to \$2,000 in fines.**
- **First Degree Retail Fraud: Stealing something from a store totaling over \$1,000. This is a felony charge and could be punishable by up to five years in jail and up to \$5,000 in fines.**

It is important to note that theft and robbery differ, in that theft is when someone takes property that is not theirs. Whereas robbery involves threats or use of force to steal something. The penalties above are for theft.

Receiving a ticket and being arrested for alleged retail fraud does not prove that the crime was committed. The criminal charge requires proof beyond reasonable doubt, that you in fact did commit the crime. Some examples of the proof needed are:

- **When you entered the store and actions you took when you were in the store.**
- **That you took something the store sold.**
- **That you physically moved the item(s) from the original position.**
- **Eyewitness accounts of your activity. This could also include video accounts.**
- **The value of the item taken fits the degree of the crime.**





- **If you are shopping in store, keep your eyes open for card skimming devices that could be attached to a card reader.**
- **Consider using a credit monitoring service and freezing or locking your credit**
- **Do not join a public WiFi to purchase anything.**
- **Verify charitable causes before donating to them to make sure they are legitimate.**

Identity Theft

With an influx of shopping during the holiday season, identity thieves are on high alert to steal credit cards, personal information, and social security numbers. They are looking for anything they can use to make purchases with your information. If you are charged with identity theft, it is a serious criminal offense and is charged as a felony in Michigan.

Depending on the circumstances surrounding the charge, you could see the following penalties for identity theft:

For a first offense identity theft charge you could see up to five years in prison, up to \$25,000 in fines, or both.

For a second offense identity theft charge you could see up to ten years in prison, up to \$50,000 in fines, or both.

For a third offense identity theft charge you could see up to 15 years in prison, up to \$75,000 in fines, or both.

To help keep your identity safe this holiday season, make sure you do the following:

- **Shred documents with your personal information on them.**
- **Have an antivirus software program on your computer.**
- **Make sure your passwords are unique and complex on your computer and phone.**
- **Be cautious when you are shopping online. Purchasing items from a reputable retailer is strongly recommended.**
- **Look out for deals that seem too good to be true. Oftentimes those should signal a red flag.**

Domestic Violence

Unfortunately, with increased alcohol consumption and financial stress, the holiday season can also spark conflict and controversy with loved ones. Domestic violence charges are profoundly serious and can carry the following penalties:

A first domestic violence offense would be charged as a misdemeanor and punishable by up to 93 days in jail, a \$500 fine, or both.

A second domestic violence offense would also be charged as a misdemeanor and punishable by up to one year in jail, a \$1,000 fine, or both.

A third domestic violence offense would be charged as a felony and punishable by up to five years in prison, a \$2,500 fine, or both.

Along with these penalties, you could also see court ordered probation, counseling, lose custody of your children, or required to perform community service.

In sum, if you are charged with any of these four crimes, it is imperative that you seek legal counsel. These are all serious criminal offenses that can carry weighted penalties. You should have an experienced criminal law attorney to walk you through the process. ◆



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