

Your Life, Your Legacy

Volume 11 Issue 1

January 2009

The Eldercare Journey: How To Protect Yourself, Your Family, and Your Finances

What can you do now to protect your life savings from being lost to nursing home costs?

Why does “traditional” estate planning fail...and why should you focus first on preserving your estate?

How can you or a loved-one qualify for “hidden” Veterans benefits to help pay for home care of independent or assisted living costs?

How can you guarantee that you will provide an inheritance for your loved ones?

For answers to these and other important questions facing seniors and their families, attend one of our FREE workshops in Missouri or Illinois

WEDNESDAY,
JANUARY 28TH

6:30 P.M.
THE FOUR POINTS
SHERATON
319 FOUNTAINS PKWY.
FAIRVIEW HEIGHTS, IL

THURSDAY,
JANUARY 29TH

2:00 P.M.
DRURY INNS & SUITES
WESTPORT
12220 DORSETT RD.
MARYLAND HEIGHTS, MO

Attendance is FREE, but seating is limited.
Reserve your space NOW by calling
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Taxes, IRAs, and Planning

Some current provisions of the tax laws are of particular interest to seniors who want to save taxes and to preserve their assets against the risk of being lost to pay for future long term care costs. But are they right for you?

One of those provisions, which was very recently enacted, involves required minimum distributions ("RMDs" for short) from IRAs. Ordinarily, the law requires that starting in the year following the one in which he or she reaches age 70½ (*Comment: only the IRS celebrates "half birthdays" at that age*), a senior must withdraw a certain amount – the RMD – from his or her IRA each year. There is normally a 50% excise tax as a penalty for failure to withdraw the RMD.

In order to protect seniors from having to sell stock in a down market to fund their RMDs, Congress (as part of the Worker, Retiree, and Employer Recovery Act of 2008) suspended the RMD rule for 2009. As a result, withdrawing money from an IRA in 2009 will be a matter of choice, not a legal requirement.

On another subject, the tax rate on capital gains (the net profit from the sale of stocks, real estate, and other types of investment assets) and qualified dividends (together, "adjusted net capital gains," or "ANCG" for short) is normally 15%, or 5% for taxpayers in the 10% and 15% marginal income tax brackets. However, under the provisions of the Jobs and Growth Tax Relief Reconciliation Act of 2003 ("JGTRRA"), as extended by the Tax Increase Prevention and Reconciliation Act of 2005 ("TIPRA") the 5% rate has been reduced to 0% (there is no tax) for 2008 through 2010, to the extent that ANCG would be taxed at 10% or 15% if it were ordinary income.

(Comment: Congress seems to include the word "reconciliation" in every tax bill, in apparent recognition that they have done us wrong and need to try to make it

When it comes to planning, there is no such thing as "one size fits all."

up to us somehow.)

Although the suspension of the requirement of taking RMDs for 2009 will come too late to help seniors who were required to liquidate assets at a loss in 2008, it could provide welcome relief for many seniors this year. So might the temporary capital gains tax break, especially for those with investments they have held long enough and bought at a low enough price to still realize a gain from their sale, even in a down market, say for example land or stocks bought long ago or investments purchased at a discounted price and then sold at a profit before the end of 2010.

Taken in combination, the two tax breaks could in certain instances offer a very valuable planning opportunity.

Say, for example, that you're retired, age 75, and draw Social Security and a pension, take IRA withdrawals, and have whatever income (if any) your investments generate. And say that you own some investment property or some stocks that you might like to sell and would realize a gain from selling. By not taking the RMD from your IRA in 2009, you might cause your 2009 income to be reduced by enough that you would not have to pay any capital gains tax on your profit, this year, from the sale of those capital assets.

Interestingly enough, just because the IRS makes a particular tax break available, that doesn't mean that everybody who *could* use it *should* do so. People should buy and sell assets only for good substantive reasons. Placing greater emphasis on tax considerations than substantive ones is letting the tail wag the dog.

It's also critically important that these decisions be made in consideration of "the big picture," and in recognition that saving or deferring taxes is not the only (or, in many cases, even the most important) planning goal.

Perhaps the greatest example of



that relates to the deferral of income from IRAs and other qualified retirement funds. Many people (including many advisors) assume that because you *can* defer the income from an IRA or other qualified plan, that necessarily means that you *should* do so, by only withdrawing the RMD each year. In fact, in many instances that strategy causes problems in later efforts to protect assets from having to be spent down to pay for nursing home costs.

Let's say that you later enter a nursing home, or develop Alzheimer's and realize that you will likely need that level of care eventually, and a large part of your life savings are tied up in an IRA. At that point you can either hold on to the IRA until you have to spend it all on long-term care (which we like to refer to as "the 100% nursing home tax"), or else in order to move it out of harm's way (even from one spouse to another) – as part of either "crisis Medicaid planning" or asset preservation planning carried out in advance – you may well have to withdraw everything at once, likely causing part of the income to be taxed at a higher rate than if withdrawals greater than the RMD had been taken in earlier years.

There are some important lessons to be learned from all this.

The first lesson is that planning opportunities are often available, but if you don't know about them or don't learn about them soon enough, you'll

miss out on the chance to save some money.

The next lesson is just because taking advantage of a certain tax break is good for somebody else, or even "for most people," that doesn't mean that it's necessarily best for you. When it comes to planning, there's just no such thing as "one size fits all."

The last, and perhaps most important, lesson is that good, professional planning is never ultimately an expense, but rather an investment that will likely pay for itself many times over in terms of what you'll be able to save and protect for yourself and your family. It will enable you to be aware of and to take advantage of available planning opportunities, and to do so in a way that will produce the best possible result for you.

Incidentally, although we're very proud of our knowledge of the laws and the opportunities they offer for our clients through wise planning, we never profess to know all of the answers or to have a monopoly on good ideas. That's why we're always happy to work with your professional investment advisor, insurance advisor and/or accountant as part of a planning team.

Taxes, IRAs, and Planning (continued)



Men now make up nearly 40% of family care providers.

More Men Take on Caregiver Role

The Alzheimer's Association and the National Alliance for Caregiving estimate that men make up nearly 40% of family care providers, up from 19% in a 1996 study by the Alzheimer's Association. About 17 million men are caregiving for an adult. A growing number of men are providing primary care for their aging parents, usually their mothers.

It used to be that when men said, "I'll always take care of my mother," it meant, "My wife will always take care of my mother," said Carol Levine, director of the families and health care project at United Hospital Fund. "But now, more and more men are assuming the role of primary caregiver for their mothers."

"Your Life, Your Legacy, Your Lawyers"

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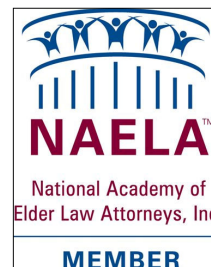
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**January
Teleseminar**

**Calculating Income in
Determining Eligibility for
VA Aid and Attendance Benefits**
(Why a Lot More People Can Qualify
Than You Probably Imagine)

Hosted on Tuesday, January 27th at 12 noon, this half-hour teleseminar will be of great interest and practical importance for anyone, from financial advisors and attorneys to home care providers and assisted living and nursing home personnel, who deals with veterans and widowed spouses of veterans who face the challenge of paying for medical and care expenses.

Want to be a part of the Tuesday, January 27th teleseminar? Reserve your space NOW by calling Steve Held at (314) 567-9292 or (618) 659-9292, or by e-mailing him at steve@coulsonlawgroup.com. All participants will receive a FREE multimedia CD of the teleseminar. Reserve your space today!!