Czepiga & Daly LLC

Planning today for your tomorrow

News You Can Use

Volume 1, Issue 2 July 2008

Brendan Daly has received the designation of Certified Elder Law Attorney (CELA) from the National Elder Law Foundation as a result of his experience, education, and testing by the Foundation (recognized by the American Bar Association but not by the Rules Committee of the Connecticut Superior Court). Brendan is one of only 11 Certified Elder Law Attorneys in Connecticut.

Inside This Issue:

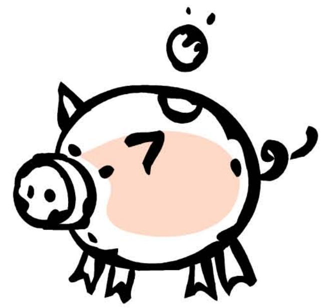
Make sure to check our schedule of speaking events for the summer. Czepiga & Daly will be holding classes at West Hartford Continuing Education and Manchester Community College.

Be Certain You Get the Pension You've Earned

Are you having difficulty getting the pension or 401(k) plan funds you worked years to earn? Five pension counseling projects, funded through the U. S. Administration on Aging and serving plan participants and their beneficiaries in 22 states, can help!

The retirement system's complexity and unresponsiveness can overwhelm the most tenacious retirees when they try to obtain the pensions they have earned. Companies change their names, merge or go bankrupt. They terminate, freeze and under-fund pensions. In some instances companies deny that employees worked for them, or they miscalculate pension benefits. Death or divorce can add difficulty in securing pension benefits. Solving these problems is the work of the pension counseling projects.

Since their inception in 1992, the pension counseling projects have obtained pension benefits valued at more than $75 million for workers and retirees who have earned them.



In most cases pension counseling projects confront a seemingly never-ending succession of brick walls to obtain what a retiree clearly appears to be entitled to. For example,

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Taking a Second Look If You Elected Early Social Security Benefits

Did you elect to take Social Security benefits before your full retirement age? If you did and are now looking for extra income, there may be an answer. Once you reach full retirement age, you can pay back the money you have received and reapply for full retirement benefits.

Although you can collect Social Security benefits between age 62 and your full retirement age, if you do, your benefits will be lower. For example, if you were born in 1944 and decide to retire at age 62, four years before your full retirement age of 66, your total benefit reduction is 25 percent. If your full benefit was to be $1,000 a month, your reduced benefit will be $750.

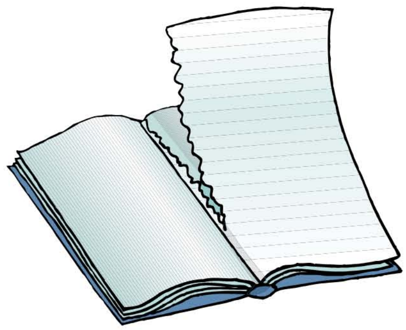
A little-known provision of Social Security allows you to withdraw your application for early benefits and reapply for your full benefits. The catch is that you must be able to pay back all the money you received so far. However, because you do not have to pay any interest on the benefits you received, if you can find the money to repay the benefits, it may be worth it. You could think of it as an interest-free loan.■

Disinheriting a Relative Can Be Complicated

You may feel that you have given one child more during your life, so he or she should get less in your will. Or you may want to cut out an heir altogether. Whatever the reason, disinheriting a close relative--especially a spouse or a child--can be complicated.

It may not be possible to completely disinherit a spouse. Even if you don't leave your spouse anything in your will, most states have laws that keep a spouse from losing everything. If you live in a "community property" state, your spouse already owns half the community property. Other states have laws that automatically entitle a spouse to portion of your estate.

Even if you don't completely disinherit your spouse, he or she can choose between taking what the will provides or taking what the law in your state says a spouse should receive in any case (the "statutory share," usually one-third to one-half of the estate). The only solution is to enter into an agreement with your spouse in which you each waive the right to receive anything from the other's estate.



Disinheriting a child is a different story. You will need to check with an attorney in your state to find out what is required. Louisiana is the only state that does not allow an adult child to be disinherited. While other states do not require that you leave anything to your adult children, there may be laws that protect minor children. For example, in Florida you are required to leave your house to either your spouse or a minor child, if they are living. In addition, there are often laws that protect children born after a will was written. To be safe, even if you are leaving a child nothing, you should specifically mention the child in the will. It may also help to state the reason the child is getting nothing or a reduced amount. If you don't mention a child at all, the state may conclude that you did not intentionally exclude the child.

Disinheriting a close relative can cause fights among family members. Squabbles over wills can drag on for years and prevent your heirs from receiving their inheritance, so if you are planning on disinheriting someone, it is important to take as many precautions as possible and consult with an elder law or estate planning attorney.■

Second Marriages and Life Insurance

As second marriages become more and more common, beneficiary designations become more complicated. If you are remarried, choosing a beneficiary for your life insurance policy may not be simple, especially if you have children from a previous marriage. When it comes to life insurance, how do you make sure your spouse is provided for without forgetting your children?

If you already have life insurance with your first spouse as the beneficiary, you need to make sure you can change the beneficiary. If you are divorced, you may not be able to change the beneficiary designation. Bring your divorce decree with you to an attorney so he or she can make sure you do not violate the decree. If you can't change your beneficiary, you may want to buy additional life insurance or retirement plans that will include your new spouse.

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The next question is who should be the beneficiary of the policy? If you name your new spouse, your children are not guaranteed to receive any of the money. If you name your children, your spouse will not get anything. The solution may be to create a revocable trust and name the trust as the beneficiary of the life insurance policy. When you die, your life insurance policy will fund the trust. You can set up the trust however you like. For example, you could allow your spouse to access the money while he or she is alive and have the remainder go to your children after your spouse dies.

Choosing a beneficiary for a life insurance policy is not as simple as it seems. Consult with an attorney to determine what the best option in your situation is.■

IRS Estate Tax Return Updates

According to the IRS, an estimated 42,239 estate tax returns were filed for 2004 decedents, representing 1.8 percent of all deaths in that year. This is a 61% drop from the most recent year for which statistics are available 2001, primarily due to the increase in the filing threshold from $675,000 in 2001 to $1.5 million in 2004. Of the 2004 decedents that filed estate tax returns, 45.7 percent reported estate tax liability, resulting in a combined reported $22.2 billion in net estate tax.

Fourteen (14) percent of returns filed by 2004 decedents claimed valuation discounts encompassing both publicly traded and closely held stock, real estate, limited partnerships, farms, and non-corporate business assets. On average, the discounts reduced the gross estates by 3.4 percent.

Approximately 3.6 percent of 2004 decedents owned interests in family limited partnerships (FLPs). This was a 110 percent increase from 2001 decedents. The reported $3 billion in assets in FLPs included: public traded and closely held stock (38.2 percent); real estate and related real estate investments (22.1 percent); bonds (11.7 percent); and limited partnership interest (11.6 percent). $3.5 billion in discounts were reported for assets held in FLPs, representing 54 percent of all discounts taken. The average reported discount rate for assets in an FLP was 32 percent.

Allowable deductions for returns filed in 2005 totaled $84.96 billion. The two largest categories were bequests to a surviving spouse (45 percent) and charitable bequests (approximately 20 percent of all returns). The average deduction for funeral expenses was $9,306, and the average deduction for attorneys' fees was $34,068 for returns claiming those expenses.

Adjusted taxable gifts were reported on 21.6 percent of all 2004 decedent's returns filed. Roughly, 5.2 percent of these returns (gifts made prior to death) paid gift tax, amounting to $1.5 billion, and only .48 percent paid generation skipping transfer tax, totaling approximately $166 million. ■

Pension, Con't from page 1

a 62-year-old man from Connecticut worked for a large communications company for nearly 21 years, more than enough time to meet the legal requirements for vesting. He called the Pension Action Center at the University of Massachusetts Boston, utterly frustrated that after trying for more than a year, he was unable to get his pension.

First, company officials told him that they had no record of his employment. After he provided proof of his employment, they told him he must have worked in a position that was not covered by the pension plan. When he asked what that position was and why it was not covered, they said that they didn't know because they had no records. The same baffling statements were initially repeated to the Pension Action Center.

Obtaining the legal documents that governed the plan proved that there was no basis for the statements. The documents specifically provided that "all employees" were pension plan participants and would accrue benefits under the plan. The Action Center filed a formal claim on the man's behalf, pointing out the plan provisions and documenting his lengthy employment. After months of follow-up phone calls and letters, a favorable decision was received. The man received a monthly pension of more than $600 for his lifetime with an estimated value of more than $144,000.

Helping this man to get the benefits he had earned was gratifying, but the effort it took would anger and frustrate anyone who did not have the knowledge and persistence to finally win. That is what the pension counseling projects provide.

The pension counseling projects offer a unique and confidential service that is free of charge for individuals who need help. If either you, your company or pension plan is within a project's service area, you may contact your project for help. Here are the pension counseling projects and the states they cover:

New England Pension Rights Project

Pension Action Center (888) 425-6067

Serving Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.■

Czepiga & Daly LLC

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We're on the web at www.czepigadaly.com

If you would like to receive this newsletter via email, please contact our office at (860)-594-7995 or email to korrie@czepigadaly.com.

Speaking Engagements

July:

West Hartford Continuing Education
Should I Give My Home to my Children? - Gifting Strategies that Prevent you from Going Broke at the Nursing Home.
July 14 and 21 at 6:30 - 8:00 p.m.

Estate Planning for Children and Adults with Special Needs
July 28 at 6:30—8:00 p.m.

Please contact West Hartford Continuing Education at (860) 561-6900

Berlin-Peck Memorial Library
234 Kensington Road, Berlin
July 14 at 6:00 p.m.
Are you part of the "Sandwich Generation?"

- Does your Mom or Dad need assistance at home?
- How do you decide between homecare, assisted living, intermediate and skilled care??
- Is the right person taking care of your parents?

An informational seminar about the options in getting the best care for your parents.
Call Czepiga & Daly at (860) 594-7995 for seating

August:

Manchester Community College
My Neighbor Has a Living Trust - Should I?
August 12 at 6:30 - 8:00 p.m.

Should I Give My Home to my Children? - Gifting Strategies that Prevent you from Going Broke at the Nursing Home.
August 13 & 20 at 6:30 - 8:00 p.m.

Estate Planning for Children and Adults with Special Needs
August 19 at 6:30 - 8:00 p.m.
Please contact Manchester Community College at (860) 512-2824

Simsbury Senior Center
August 21 at 1:30 - 2:30 p.m.
Topic: Living Trusts and Probate Courts
754 Hopmeadow St, Simsbury
Please call for seating (860) 651-9161