

SMART PLANNER

Useful Tips for a Better Tomorrow

Winter 2017

Is Your Estate Plan Ready for the New Year? Reasons Why You May Need to Update it

If you decided not to make any resolutions for the New Year, we'd like to encourage you to reconsider: **Make it a point in 2017 to review your estate plan!**



Why? You may think once you've had it drafted that, like the old infomercial tagline, you can just "set it, and forget it."

WRONG!

Even a plan that is only a few years old can be seriously outdated. Changes in your personal circumstances, your health, or your finances could impact the intentions you originally intended in your estate planning documents. They could make your plan obsolete, or worse, create greater burdens for your family.

WHY YOU MAY TO NEED TO UPDATE YOUR ESTATE PLAN

- 1 Federal tax laws concerning estate planning are constantly changing.** Federal estate and gift tax exemptions for 2017 are \$5.49 million and are now indexed for inflation.
- 2 The federal and state exemptions are now further out of sync and your Will or Trust can unknowingly create a Connecticut estate tax.** Although the federal estate and gift tax exemption for 2017 is \$5.49 million, Connecticut in 2010, reduced its estate tax exemption to \$2 million and it is not indexed for inflation. A periodic review may reveal if changes to your estate plans are needed in light of such changes, especially for a married couple, who may, with proper planning, shield up to \$4 million.
- 3 Medicaid eligibility and nursing home rules are constantly changing** (usually for the worse). Because these rules make it much more difficult to qualify for Medicaid and to protect your home and money if you enter a nursing home, they also suggest that you start your planning process much earlier.
- 4 Many financial and health care institutions often have internal rules allowing them to refuse a Power of Attorney (POA) if it is as little as one or two years old.** Even though such bank policies violate the [latest version of POA law](#), in effect October 1, 2016, a POA should be updated periodically to obtain a more current date on the document and to reflect changes in the law. Because this is one of the most useful and powerful documents, you should be sure to keep it up to date.
- 5 Changes may have occurred since you executed your estate plan.** For example:
 - Are the individuals named in the Will still capable of handling their financial affairs?
 - Should the amounts of any bequests be increased or reduced because of changed needs of the beneficiaries or the passage of time?
 - Has any new property been acquired that should be referred to in the Will?

(continued on page 2)

TALK TO YOUR KIDS!

A recent study by Fidelity Investments found that 92% of parents expect one of their children will be the executor of their estate, but more than 1 in 4 kids identified as chosen for that role didn't know they'd been named. **TAKE AWAY:** *Be sure to talk to your children about naming them as power of attorney or executor.*

WATCH OUR LATEST VIDEO



To see the answer, go to:
<http://tinyurl.com/zd2xor3>

"Don't judge each day by the harvest you reap but by the seeds you plant."

— Robert Louis Stevenson



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It's Time. Plan Today for Your Tomorrow.

Trump Presidency and Taxes: What's Next?

By Paul T. Czepiga

WOW! What a difference a few weeks can make.

Donald Trump's election to the Presidency has all those political pundits, talking heads, and pollsters re-examining the old shibboleths and trying to be prognosticians.

Well, I won't try to be a fortune teller, but I will pass on what I just heard.

I recently spent an entire day at the New England Tax Institute. There were both speakers from Washington D.C.'s largest law firms and nationally-known speakers. These speakers have their fingers more on the nation's economic and tax pulse than I do and I will cede to them the task of predicting the future.

My two takeaways from the Institute:

- 1 Even nationally-known lawyers and tax experts do not agree on what might happen.
- 2 President Trump has political capital, but he has to spend it carefully and will not be able to fulfill all his campaign promises all at once. It is not likely that estate tax reform will be a priority the first go-round.

So, what do you do?

Answer: What you have always done, which is to plan based on a foundation of known facts, and not speculation and hype. The known facts are:

- 1 As for Connecticut, until a week ago I would have said that



Connecticut's estate and gift tax exemption is not changing. But, lo and behold, Governor Malloy included in his two year budget proposal on February 7th a line item to bring Connecticut's \$2.0 million gift and estate tax exemption to parity in 2020 with the IRS's \$5.49 million estate and gift tax exemption. Whether the legislature goes along with this is another story.

- 2 Regardless of what might happen to the federal estate tax, income tax issues such as deferring income taxes on large IRA accumulations and planning how to utilize step-up in basis at death (or not) remain.

BUT whether you have exposure to federal or Connecticut estate tax is arguably less relevant than making sure your hard-earned assets at your death pass to the right beneficiaries in

the right amount at the right time. If you have unique assets (such as a closely-held business) or beneficiaries who need some oversight due to a disability or just poor financial management skills, you still need an estate plan—estate taxes are secondary.

So don't get caught up in the hype and don't try to predict the future. From an estate planning view, deal with what you know. Make sure that if you are disabled, your financial power of attorney is current (Connecticut has a new law effective October 1, 2016), your health care directives are up-to-date. And make sure your Will or trust reflect your current wishes.

And sleep tight and stay tuned. ■

TIP OF THE MONTH . . .

Alternate Uses for Nail Polish

- > **Fight rust rings.** Shaving-cream cans and similar objects can leave rust stains on your sink, tub or counters. To prevent those stubborn marks, apply nail polish to the can's bottom lip.
- > **Protect labels.** Brush a clear polish over prescription labels if you worry that the instructions might be smudged or erased by contact with water.
- > **Fix a window screen.** A line of nail polish can mend a slight tear in a window screen. If the screen has a hole, create a small patch and use the polish to secure it in place.
- > **Seal envelopes.** Have a stack of invites to send? Applying a swipe of nail polish to each envelope can be more efficient than licking.
- > **Mark your house keys.** Dab colored polish on the head of each key to identify it. When inventing a color code, use alliteration: green for the garage, pink for your PO box, etc.



Estate Plan Update *(continued from front)*

- Have loans or advances been made to any beneficiaries named in the Will requiring adjustment of their bequests?
- Have there been any births or any family members or beneficiaries who have died?
- Has there been a change in your or a beneficiary's marital status?
- Has there been a change in your relationship with your executor or guardian?

As you can see, there are many reasons you need to periodically review your estate tax planning strategy. But more than anything, you need to continue to be protected.

You've spent lots of effort and time creating your estate plan...to communicate your wishes, identify who will act on your behalf and protect all you've worked for. And perhaps to perpetuate your legacy. Don't let this all be in vain.

Start this year off right and take the steps to make sure your plan is up to date.

And if you're not sure if your plan needs changes or has been impacted by changes in law, give us a call and we'll give you a hand. ■

Paying Your Family to Care for You May Not Impact Your Medicaid Eligibility

Transfers of assets generally raise a red flag when it comes to applying for Medicaid. They can trigger a [penalty period](#), or a period of ineligibility. The good news is the Connecticut Department of Social Services (DSS) will allow certain types of [Medicaid asset transfers](#).

For example, a family caregiver can be compensated for providing care to a loved one if the care they provide is necessary.

Make a caregiver agreement

The individual must demonstrate a functional need for assistance with one or more activities of daily living. The type of care provided must be spelled out in a caregiver agreement, and certain conditions must be met.

The rationale is this: DSS recognizes that when family members pitch in and provide needed care for a loved one, they are helping that person delay or avoid placement in a nursing home.

Although your loved one can't just give away his or her money to qualify for Medicaid, he or she can *pay* a family member who is providing care without jeopardizing eligibility for Medicaid.

DSS conditions that must be met

- 1 Compensation must be received in accordance with a legally enforceable agreement. This agreement, called a "caregiver agreement," spells out all the details of the arrangement, just as if your loved one was hiring an outside agency instead of you. This agreement should always be in writing.
- 2 DSS specifies specific rates if the services provided fall into the category of homemaker or home health aide. The rate is the established current minimum wage for these types of services.

For all other types of services, the actual cost is used.

- 3 Compensation in the form of real or personal property is calculated using its fair market value.
- 4 If the individual receiving care resides with the caregiver, payments can be made for home improvements necessary to allow him or her to remain in that home and avoid institutionalization. This includes things like adding a bathroom to the main level of the home or installing a wheelchair ramp, grab bars or stair lift.
- 5 The caregiver must keep an accurate record of services provided, by logging time in a daily timesheet, for example.

Create an agreement before you start

A key thing to keep in mind is that the caregiver agreement cannot be created retroactively. You can't decide that you've been providing care for five years, determine what it was worth, and create an agreement after the fact. If you and your loved one wish to enter this type of arrangement, create your caregiver agreement beforehand.

A properly drafted caregiver agreement is a good way to compensate caregivers who are providing needed care, and still allow the care recipient to retain eligibility for Medicaid. Give us a call if need a hand putting a caregiver agreement together. ■



Claudia Englisby

WHAT'S UP WITH US

Our team is full of interesting, inspiring, hard-working individuals. In this issue, we'd like to highlight two of our attorneys who have gone the extra mile to further their knowledge of elder law and estate planning.

As if going to law school wasn't challenging enough, attorneys [Claudia Englisby](#) and [Lynda Lee Arnold](#) spent an additional two years to get their LLM degrees in elder law and estate planning. And what is an LLM, you may ask?

The Master of Laws (LLM) is an advanced law certification that has global credibility. It's offered by US and Canadian law schools for JD graduates who wish to expand their proficiency in a specific area of law.



Lynda Lee Arnold

Claudia, the head of our disability planning practice area, received her LLM in 2009, juggling her course load alongside raising her young daughter. She wanted to gain all the knowledge she could before beginning her practice.

Lynda just received her degree – congratulations Lynda! Several years ago she had moved from a family law practice to our firm and felt the advanced degree would be the best and most efficient way to gain in-depth knowledge of estate planning and elder law. She fit her classes and study time in between all the many hours she was practicing law.

It's Time. Plan Today for Your Tomorrow. Call us at (860) 236-7673.



To see our Adult Education schedule,
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and go to SEMINARS

- Feb 28..... [Estate Planning: Don't Make these Mistakes](#) – Wethersfield High School
- Mar 7..... [Planning for Long-Term Care](#) – Wethersfield High School
- Mar 7..... [Estate Planning: Don't Make these Mistakes](#) – Berlin High School
- Mar 8..... [Estate Planning: Don't Make these Mistakes](#) – Henry James Memorial School
- Mar 14..... [Planning for Long-Term Care](#) – Berlin High School
- Mar 15..... [Planning for Long-Term Care](#) – Henry James Memorial School
- Mar 22..... [Estate Planning: Don't Make these Mistakes](#) – Rockville High School
- Mar 22..... [Estate Planning: Don't Make these Mistakes](#) – New Milford High School
- Mar 28..... [Estate Planning: Don't Make these Mistakes](#) – Glastonbury High School
- Mar 29..... [Planning for Long-Term Care](#) – Rockville High School
- Mar 29..... [Planning for Long-Term Care](#) – New Milford High School



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Trump's HHS Nominee Says Medicaid's Coverage Guarantee Could End Under Block Grants

In response to questioning by senators, President Donald Trump's pick to run the Department of Health and Human Services (HHS) said that the right to Medicaid could end under a block grant system.

As reported by CNN, in a contentious hearing before the Senate Finance Committee, Sen. Robert Menendez (D-NJ) noted that Medicaid is currently an entitlement program under which anyone who meets eligibility criteria has the right to be covered.

"When you move to a block grant, do you still have the right?" Menendez asked the HHS nominee, Rep. Tom Price (R-Ga).

"No," Price replied. "I think it would be determined by how that was set up."

Turning Medicaid into a block grant program has long been a Republican goal, and on January 22, President Trump's senior adviser Kellyanne Conway confirmed that the administration's plans to replace the Affordable Care Act would include turning Medicaid into block grants to the states. Conway claimed that converting Medicaid to block grants would ensure that "those

who are closest to the people in need will be administering" the program.

But giving states more flexibility while shifting costs to them could result in radically changed eligibility rules. For long-term care purposes, some have suggested that the look-back period for transfers might be extended to 10 years, or protections for community spouses eliminated.

In Louisiana, Gov. John Bel Edwards, a Democrat, told *The New York Times* that he was troubled by the prospect of a block grant with deep cuts in federal funds. "Under such a scenario," he said, "flexibility would really mean flexibility to cut critical services for our most vulnerable populations, including poor children, people with disabilities and seniors in need of nursing home and home-based care."

Because large portions of a block grant proposal could be achieved through budgetary reconciliation, it could pass the Senate without Democratic support, since it would only require 51 votes, according to the PBS Newshour's explanation of the block grant concept.

Need a Hand Fielding Questions?

- > The new POA laws
- > The tension between state and federal estate taxes
- > Medicaid and other public benefits
- > Estate planning issues
- > Home care programs – federal and state
- > Special needs trusts and other trusts for disabled beneficiaries

For years professionals like you have used us as a resource for their elder law and estate planning matters. Give us a call when you need clarity.

And, if you'd like to give your staff a primer on any of these topics, let us know. We would be happy to come to your office to shed some light on the elder law and estate planning matters that would most benefit their clients.

UPCOMING EVENTS

CTLA Support Staff Seminar

Date: February 17

Location: Grassy Hill Country Club, Orange

Claudia Englisby and Sharon Pope presenting:
*Everything You Need to Know About Benefits/
Settlements*

CT Bar Association seminar

Date: March 24

Location: 30 Bank Street, New Britain

Carmine Perri presenting: *Legislation and
Litigation Affecting Connecticut Elders.*

ALERT! FINANCIAL AGENTS ARE NOW MANDATORY REPORTERS

Elder Abuse: If You See Something, Say Something. Or Else.

By Claudia Englisby

Connecticut's protections against elder abuse have recently become stronger than ever. As an elder advocate, this makes me proud.

Fortunately, we live in a state that takes elder abuse of any kind very seriously. In October 2015, a new bill was passed, strengthening protections for vulnerable elders.

Anyone who witnesses or suspects elder abuse can report it, but the bill expands the universe of "mandatory reporters." It specifies reporting requirements as well as consequences for not reporting incidents or suspicion of abuse, neglect, exploitation or abandonment to the Department of Social Services.

Mandatory reporters are any of the following professionals or community workers who may have contact with an elderly person (newly added categories in bold). You may be one!

- > Physician, surgeon, resident physician, intern or registered nurse
- > Nursing home administrator, nurse's aide, or orderly in a nursing home or residential care home
- > Person paid for caring for a person in a nursing home or residential care home
- > Staff person employed by a nursing home or residential care home
- > Patients' advocate
- > Licensed practical nurse, medical examiner, dentist, optometrist, chiropractor, podiatrist, social worker, clergyman, police officer, pharmacist, psychologist, physical therapist
- > Person paid for caring for an elderly person by any institution, organization, agency or facility, including without limitation, any employee of a:
 - Community-based services provider
 - **Person licensed or certified as an emergency medical services provider including members of a municipal fire department**
 - **Financial agents – officers or employees of financial institutions who:**
 - **Have direct contact with an elderly person**
 - **Review or approve an elderly person's documents, records or transactions**

Consequences of failing to report

Mandatory reporters are required to report incidents they recognize or suspect to the Commissioner of Social Services within 72 hours. The penalty for failing to report is a fine of up to \$1,500.

If the failure to report is intentional, the person is guilty of a class C misdemeanor for the first offense, and a class A misdemeanor for a subsequent offense.

What happens to the abuser?

The new bill specifies severe consequences for the perpetrators of elder abuse, especially those named as beneficiaries in a victim's Will. For example, a person found guilty of elder abuse is treated as if he or she died before the deceased victim and cannot receive any part of the victim's estate. Joint ownership of property is severed and property owned in "joint tenancy" may be converted to property owned solely by the deceased victim.

For those of us engaged in helping older adults enjoy the highest possible quality of life for as long as possible, it's hard to imagine the dark side of humanity that preys on the most vulnerable among us. We applaud the State of Connecticut for recognizing the need to strengthen the laws protecting elder adults.

For further information, read the full text of Public Act 15-236.



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