

ELDER LAW *Update*

NEWS AND IMPORTANT INFORMATION FOR SENIORS AND THEIR FAMILIES

HOW TO CHOOSE THE RIGHT LONG-TERM CARE LIVING SITUATION



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Seniors and their families can spend months—sometimes years—looking for the perfect long-term care living arrangement. Most families try to avoid the nursing home option to the very end, believing that assisted living or small residential care homes provide a better quality of life. But is this fact or fiction? In fact, the type of living facility you choose may matter less than previously assumed. The characteristics adult children look for when they begin the search aren't necessarily what make a difference to the people who move in—to the seniors themselves.

A recent study published in The Journal of Applied Gerontology found that among 150 Connecticut residents living in various long-term care situations (assisted living, nursing homes, residential care homes), the type of living situation itself made little difference in the resident's emotional well-being. Rather, happiness and contentment was more a matter of the characteristics of the specific environment (other residents, staff, or location) combined with the resident's

own personal characteristics — how healthy they feel they are, their age and marital status.

Keeping this in mind, it's important that seniors be as involved as possible in the search for a long-term care living situation. What follows are some of the options to consider for senior living arrangements. The choice will ultimately depend on a number of factors: health, finances, community support, and of course—your family.

Remain at Home

Many seniors would prefer to stay in their own home, and many can stay in their homes for quite some time so long as they have the support of family and community and the help of an in-home caregiver.

Senior or Retirement Community

These are often independent communities which provide age-segregated living opportunities for seniors who are still active. They usually provide social activities, regular transportation around town, and some personal care or nursing

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services. These communities can be the perfect solution for a still active senior who is unable to drive anymore, but be very cautious when choosing a community; with no regulation or governing body the non-social services they provide can be suspect.

Continuing Care Retirement Community (CCRC)

These communities offer many levels of health care on one campus, allowing seniors to begin in a very independent living situation, and move gradually to more assisted living as necessary. CCRCs may sound ideal, but they often require a significant commitment—and not just financially. The choice of a CCRC should be treated as a major investment and not just a place to live.

Nursing Home

One of the most drastic options for senior living, this is usually reserved for the chronically ill who need medical care and regulation in addition to help with the most basic of daily tasks. The decision to use a nursing home is a difficult and emotional one, and should not be put off to the last minute. Not only because nursing homes are expensive, and require as much advance financial planning as possible, but also because finding the right nursing facility for your loved one can take time. Whatever housing option you are considering, don't be afraid to ask for professional help or advice. Please contact our office for more information.

THE 2011 TAX BILL PROVIDES MUCH-NEEDED CLARITY

The year 2010 was a confusing one for taxes; this was especially true for seniors concerned with leaving an inheritance to their loved ones, or considering giving large gifts to family members. The tax bill passed by Congress last month finally answered our burning questions about the future of the estate tax, making the beginning of 2011 the perfect time to update your estate plan, reconsider your gifting strategy, and review your retirement accounts.

Here is a brief overview of what the new tax bill means for seniors in 2011:



New Estate Tax Exemptions and Rates

The new bill sets the estate tax exemption at \$5 million per individual (\$10 million per married couple), with amounts over the exemption taxed at a 35% rate. This is opposed to the \$3.5 million exemption and 45% rate some lawmakers were hoping for.

Tax Election for 2010 Estates

This is one of the biggest parts of the new bill. Tax election gives 2010 estates the choice of whether to use 2010 or 2011 tax rules. This is good news because the tax on heirs who sell assets of those who died in 2010 is based on the original acquisition cost of the assets, not on their value as of the date of the taxpayer's death, as is usually the case; which means that the taxes paid are generally higher on estates of decedents who died in 2010 than in 2009 or 2011.

Unification of the Estate, Gift, and Generation-Skipping Taxes

In recent years the exemptions for the three levies have been out of sync with each other, making succession planning difficult for family businesses and other matters. The unification of all three makes giving gifts to grandchildren much easier than it used to be.

Individual Income and Payroll Taxes

The new bill wasn't just about estate taxes; it also extends the Bush-era income tax rates; this is good news as it prevents a rise for nearly all taxpayers.

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Effective Date and Duration

The effective date of the new provisions is January 1, 2011 and is effective through 2012, at which point the provisions will “sunset.” What this means is that the new tax package may be only a temporary reprieve—we could be going through all of this again in 2012-2013.

With the threat of high estate taxes out of the way does any reason remain to or update your estate plan? Absolutely. In fact, seniors have more reason than most to pay particular attention to changing

estate tax laws, and review their wills and trusts frequently—not only because of laws pertaining to inheritance, but also because of how estate tax laws may impact gift taxes and Medicaid strategies.

Furthermore, estate planning is about more than just planning for taxes, it’s about taking control of your assets and choosing how your estate will be distributed. Divorce, second marriages, planning for college, charitable gifts—these are just a few of the reasons why estate planning is essential regardless of the state of the estate tax.

At the very least, the recent fluctuation of the law means that you’ll want to call our office and make an appointment to have your existing plan reviewed and updated to ensure you don’t have any outdated clauses that could negatively affect your heirs.

THE NEW “COST OF AGING”

“The cost of aging” used to mean failing eyesight, bodily aches and pains, and maybe the loss of your teeth; but nowadays “the cost of aging” can mean the loss of your happy marriage!

With growing numbers of senior citizens being diagnosed with debilitating elderly illnesses, and with the cost of nursing care on the rise, more and more couples are finding that they simply can’t afford to pay for the numerous visits to the doctor, endless medical treatments, and rising cost of prescription medicines. Many seniors hope that Medicaid will help, but before you can get assistance from Medicaid you will have to spend down your own assets to almost nothing—this includes spending down any savings or retirement assets you may have.

If you are the spouse of someone diagnosed with an illness such as Alzheimer’s or dementia you can really get the short end of the stick. You can put all of your financial resources toward your spouse’s care, only to find that at the end of it all you face a

bleak retirement with neither your spouse nor your savings. Some seniors are discovering a dismaying truth: that if they want to keep some kind of nest-egg for themselves, one of their only options is divorce—and the separation of finances that comes with it.

But there is some good news amongst all this gloom and doom—poverty or divorce don’t have to be your only choices. If you start planning early, you can be prepared should something like this happen to you and your spouse. Long-term care insurance is one good preventative measure, as well as some good old-fashioned discussions with our office about other asset protection strategies you can employ.

Aging is hard enough without having to end a happy marriage (and feel like you’re abandoning a beloved spouse) to ensure your own financial future. Please contact us to find out what your options are.