



TRUST AND ESTATE PLANNING NEWS

The Good News, Bad News, and Important Information
From Your Friends At Unruh, Turner, Burke & Frees

Maximize The Community Spouse's Right to Income



By: Douglas L. Kaune, JD | When one spouse enters a nursing home (Referred to as the “Institutionalized Spouse”), the spouse remaining at home (Referred to as the “Community Spouse”) often faces economic uncertainty. One of the responsibilities of the elder law attorney is to assist the Community Spouse to maximize the amount of income they can retain once their spouse enters a nursing home. We recognize that life will continue for the Community

Spouse well after their spouse has entered the nursing care facility. He or she will continue to have significant expenses going forward including, but not limited to, maintenance of their home, real estate taxes, car and home owners’ insurance, rent or mortgage, health care, food and clothing.

The Community Spouse must submit documentation to the Department of Public Welfare (Referred to as “DPW”) requesting that the DPW perform an asset assessment at the time the Institutionalized Spouse enters a nursing home.

Generally, the resource assessment is the process for determining how much of the marital asset base can be retained by the Community Spouse even after his or her spouse enters a nursing care facility. Conversely, the process also determines the portion of the marital assets that must be spent down before the Institutionalized Spouse becomes eligible for Medicaid. The resource assessment process will be reviewed in more detail in future articles. Suffice it to say, the resource assessment is very important as it relates to the Community Spouse’s ability to retain a portion of the marital assets. The resource assessment is also a stepping stone to a determination of the portion of the marital income the Community Spouse will be permitted to retain. Although I will not detail the resource assessment here, I do want readers to know that there are a number of pitfalls relating to the timing of the submission and the valuation of assets for the resource assessment.

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Client Spotlight: Jane Hollingsworth, CEO of NuPathe Inc.

We are proud to spotlight our client, Jane Hollingsworth. Jane identified an unserved medical need, launched a company called NuPathe, and recruited a team to develop Zelrix, the first patch which delivers migraine medication, and is currently awaiting FDA approval. In her interview in the August 2011 edition of “Philadelphia Smart CEO”, she reveals the secrets of her success. **1) Never lose sight of the big picture.** Don’t get too worked up that if you do ‘x’ or ‘y’ today, your entire career could be hanging on that decision, because that’s rarely the case. You just have to go with it, follow your heart and give it your all. **2) Surround yourself with the right people.** The only way I have ever been successful is the people I work with. **3) Do your homework.** Do a lot of market research, make sure you’re not believing your own story too much. The goal is to make sure that if a product fails, it fails for the right reasons, not because you didn’t do your due diligence. **4) Be persistent but selective.** You have to plan for success. You have to be careful about the battles you choose to fight. The trick is, in my opinion, that there are certain things where you just keep figuring it out and overcome the hurdles and keep moving.” Great advice from a successful client. Want to be featured? Let us know.

WINTER 2012

Look Inside

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Family Recipe

Here is a delicious recipe for Zucchini Cake courtesy of our paralegal, Denise Fox of Unruh, Turner, Burke & Frees.

2 cups flour
2 tsp. baking soda
1 tsp. salt
1/4 tsp. baking powder

3 Eggs
1 cup oil
1½ cups sugar
2 cups grated zucchini
2 tsp. vanilla

1 cup raisins - optional
1 cup nuts - optional
1 tsp. cinnamon

Bowl #1 Sift together - - flour, baking soda, baking powder and salt.

Bowl #2 Combine and mix well - - eggs, oil, sugar, zucchini and vanilla.

Combine all and mix well. *Add raisins or nuts if using.

Pour into 13 x 9 x2 baking pan and sprinkle with cinnamon.

Bake 325 for 45 minutes (13x9x2 pan)



If you have a family recipe to share, please email our lifestyle editor, Lisa Snyder at lsnyder@utbf.com and we will be in touch.

When a spouse dies, it is more complicated than ever to get the right tax treatment for you as the surviving spouse and for your children. A new IRS release has answers.



By: David M. Frees III, JD | As you may know, the present Federal Estate Tax Law (2011/2012) allows for a surviving spouse to carry forward the Federal Estate Tax Exemption available to his or her deceased spouse at his or her death. This means, that if your spouse passes away in 2011 or 2012, you might be able to "inherit" all or part of his or her \$5 million dollars of tax exemption to protect your children or their heirs from this very high tax.

However, this isn't as easy as it should be and you must be careful to protect yourself or you and your heirs will lose this valuable benefit. To realize the benefits of this "Portability" provision, the Internal Revenue Service does not require a surviving spouse to establish a credit shelter trust like those utilized in many estate plans in years past. But, it is important to file some paper work (Form 706) that might not otherwise seem necessary or desirable.

The IRS Notice 2011-82 issued on September 29, 2011 explains that the executor of the first decedent spouse's estate must timely file a Form 706 "on which the executor computes the deceased spousal unused exclusion amount ["DSUEA"] and makes a portability election."

The Internal Revenue Service makes it clear through its statement that "most (if not all) married decedents dying after December 31, 2010, will want to make the portability election." This will mean that the surviving spouse or other executor of the surviving spouse's estate might have to do a bit more work to prepare and file the federal estate tax return. This will also involve a cost in legal fees.

However, the benefits for the future generation could be significant. It is calculated that the additional \$5,000,000 of federal estate tax exemption resulting from the portability election could result in a federal estate tax savings of \$1,750,000 (or more). Again, we believe it is important for virtually all surviving spouse's to file for the Portability of their deceased spouse's estate tax exemption. While a surviving spouse's estate value might be under the present \$5,000,000 exemption per person, one of the following could happen:

- 1) The surviving spouse's estate value could rise significantly and ultimately exceed his or her exemption at his or her death.
- 2) The Federal Estate Tax Exemption could be reduced below the surviving spouse's estate value. **(NOTE: It is currently scheduled to drop to \$1 million by the start of 2013),** or
- 3) There could be a rise in the estate value and a decrease in the exemption amount. **Continued on Page 3.**

A new IRS release has answers...(cont. from Page 2)

Regardless of which of those occurs, the extra \$5,000,000 of exemption, that could be carried forward from the decedent spouse, would go a long way toward protecting some or all of the second deceased spouse's estate from the 35% tax that now would apply. **That makes this step important and potentially very effective as an estate tax reduction technique.**

ACTION STEP: While the preparation and filing of the Form 706 can be complex and time consuming it is likely well worth the effort when considering the potential tax savings. If your spouse (or one of your parents) passes way in 2011 or 2012 make sure to hire counsel to advise you regarding the Federal Estimated Tax Return.



Maximizing the Community Spouse's right to

income (cont. from Page 1) Once the resource assessment is complete and the PA DPW has made an asset retention finding, the Community Spouse will have an opportunity to submit a DPW worksheet for determination on the portion of the marital income that he or she may retain during the time the Institutionalized Spouse is receiving Medical Assistance/Medicaid. This is often a critical juncture for the Community Spouse. We want to obtain the Community Spouse's Maximum Monthly Maintenance Allowance (MMMA) within the guidelines set by DPW. The DPW releases figures annually that represent the minimum and the maximum amount of marital income a Community Spouse may retain.

To achieve the MMMA, the applicant must document all expenses and all sources of income. It is important that all eligible expenses are included and that you portray the income sources in a way that is most favorable to the Community Spouse's efforts to maintain economic security. Once the worksheet is completed, you will have a very good idea of the amount of monthly income the Community Spouse is permitted to receive.

If the total income earned by husband and wife is below the MMMA, the Community Spouse will have a relatively brief opportunity to take steps to increase his or her own Monthly Maintenance Allowance. This opportunity could be lost quickly so decisive steps must be taken. One of the best options will be the purchase of an actuarially sound Immediate Annuity. This planning option allows the Community Spouse to transform assets that would otherwise have to be "spent down," before the Institutionalized Spouse becomes eligible for Medicaid into an income stream. As a result, the Community Spouse both increases the income stream while his or her spouse is in the nursing home and also maintains that increased income stream should the institutionalized spouse pre-decease him or her.

The relatively short period of time following the first spouse's entry to a nursing home is very important for the financial well-being of the Community Spouse. The Community Spouse should seek professional assistance to insure they are protected to the greatest extent possible. For more elder law news, go to www.paelderlawsolutions.com.

Want To Make Your Estate Planning Work Even Better?

A Technique Used By Affluent Families

Consider a Family Meeting for your next family get together or even vacation.

For years, very wealthy and affluent families have used family offices and family meetings to educate their children and grandchildren about estate planning, trusts, their family values and business services and how to pass on and to preserve their family businesses and financial legacies.

If you would like to make sure that your family members understand your plan, how to protect his/her inheritance and how to save money, then call (610) 933-8069 to apply for our Family Meeting Program.

If you're interested, one of our attorneys will call you to make sure that this program will work for your family.

Sudoku

Fill in the blank squares so that each row, each column and each 3-by 3 block contain all of the digits 1 thru 9.

2		5		7				6
4			9	6				2
				8				4 5
9	8			7	4			
5	7		8		2			6 9
			6	3				5 7
7	5			2				
	6			5	1			2
3			4				5	8

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Email lsnyder@utbf.com for answer key.

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The Good News, The Bad News, And Important Information From Your Friends At UTBF

WINTER 2012

Preparing for the Week Ahead - The “Little Thing” That Can Work Wonders

Making it through the workweek can be hard enough without tackling what feels like a mountain of household chores. If general housework tasks aren't given their own specific time slots, though, it becomes all too easy for them to take up the entire weekend so that there's not a spare minute left to relax and enjoy what should be your leisure time and downtime with friends and family that you have already scheduled into your weekend.

For many people, Friday evening marks the start of the weekend and an opportunity to kick back. The trouble with slipping into weekend mode so soon, however, is that all the preparation for the following week is still on your mind, so you don't actually relax fully. Why not try using Friday evenings to get together a list of the one or two things you must accomplish on Monday? Then, get the whole household involved in blitzing the chores. In this way, everyone can chill out properly on Saturday and Sunday, and with a guilt-free conscience. And you're ready to complete your highest priority “To Do's” on Monday.

From the Offices of

David M. Frees, III & Douglas L. Kaune



Would you like more information about how
family meetings can protect and preserve
your assets?

Visit <http://tiny.cc/familymeetings>

For a no obligation appointment or
complimentary phone consultation with one of
your lawyers, please call 610-933-8069 and
mention our UTBF WINTER NEWSLETTER

Lisa, Tammy, Donna, or Denise
will be happy to assist you.

Make New Year's Resolutions as a Family

A new year represents a fresh start, an opportunity to set goals and reset your priorities. Don't limit New Year's resolutions to yourself—get your whole family involved. Consider collaborating on these resolutions for the year:

- Eat dinner as a family. Families seem to be busier than ever these days, so making room for consistent togetherness time is even more important. Think about cutting back on meetings (you and your spouse) and extracurricular activities (your kids) so everyone can eat dinner together more often, try to commit to doing it at least 3x per week.
- Build confidence in children's strengths. Don't spend all your time pointing out your kids' mistakes and weaknesses. Children grow up to be successful and self-reliant because they're sure of their strengths. Give them the confidence to tackle anything. There's a happy medium.
- Hold regular family meetings. These times should be used to discuss schedules, goals, and even grievances. Family meetings can help everyone in the family reconnect and communicate. See our article on Family meetings on Page 3.
- Make personal resolutions a family affair. If you've decided you want to do more charitable work, consider making your personal goal a family goal. Volunteering as a family is a powerful way to build a sense of community and philanthropy in yourself and your kids. For more information on family charity, visit www.chescocf.org.