CALDWELL LAW

ESTATE PLANNING & SETTLEMENT

TAKING GOOD CARE OF TOMORROW…

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Setting Every Community Up for Retirement Enhancement

Join us for a workshop to discuss new law: February 12th for Advisors, February 13th for Clients

The SECURE Act became law January 1, 2020. The Act aims to address a pressing issue: the lack of sufficient retirement savings (referred to as "IRAs" here) among a significant percentage of Americans. The primary manner it does this is to push back the required beginning date for IRA withdrawals from April 1 following the year the account owner turns 70.5 to 72 and permitting contributions to IRAs throughout life. The Act's incentives and tax credits are balanced by other new measures, such as accelerated taxation of inherited IRAs, the feature of the law which has the greatest impact on estate planning.

Happily, an account owner's spouse can still "roll over" the deceased spouse's IRA and treat it as her or his own. Under the previous law, when an account owner died, non-spouse beneficiaries could "stretch out" required minimum distributions (RMDs) over their life expectancies. This permitted significant income tax deferral for IRAs—it is remains available for the beneficiaries of account owners who died in 2019. However, beginning January 1, 2020, non-spouse beneficiaries inheriting IRAs from account owners who die in 2020, will be required to withdraw the entire account within 10 years of the account owner's death. There are some exceptions to the general rule: the account owner's children under 21 (use life expectancy until 21, then the 10 year rule); disabled people (during term of disability); chronically ill persons; and a person fewer than 10 years younger than the account owner.

For most non-spouse beneficiaries, this means loss of income tax deferral and loss of asset protection if the IRA is distributable to a "conduit trust" requiring payout of the IRA distributions it receives, as many do. Some of the strategies designed to help ameliorate this result include:

A. **Roth conversions** (take advantage of current low income tax rates and replicate lifetime distributions to beneficiaries with asset protection)
   1. Methodical Roth conversions by the account owner to incur income tax over a longer period of time thereby managing tax rates. (This is especially effective if the account owner's income tax rates are lower than beneficiaries'.)
   2. If an estate is subject to the estate tax, conversion can be beneficial because paying income tax reduces value of estate and currently income taxes are lower than the estate tax.

B. **IRAs payable to charitable trusts** (replicate lifetime distributions to beneficiaries with asset protection and benefit charity)
   1. IRA payable to a charitable trust at death.
   2. Greater deferral, better bracket management and may be able to convert ordinary income to capital gain.
   3. Protects income stream for life of beneficiaries and benefits charity.

C. **Life insurance** (take advantage of low income tax rates and replicate lifetime distributions to beneficiaries with asset protection)
   1. Methodical IRA withdrawals to incur income tax over a longer period of time at lower rates.
   2. Invest withdrawals in life insurance.
   3. At death, insurance proceeds are tax-free and, if held in an irrevocable trust, can provide asset protection, distributions over beneficiaries' lives and avoid estate tax.

Long Term Care Planning and Medicaid

With over half of all long-term care services and supports now provided through state Medicaid programs, many people engage in long-term planning to protect at least some portion of their savings and assets while still allowing them to qualify for Medicaid.

In New Hampshire, if you need nursing home care you may be required to use all but $2,500 of your assets ($2,000 in Vermont) to pay for your care before Medicaid steps in. Instead of spending all of your savings on nursing home care expenses, you may be able to protect funds by gifting money to your beneficiaries, funding an irrevocable trust for your own benefit or purchasing a Medicaid compliant annuity.

When considering making gifts as part of a long term care plan you must factor in a period of ineligibility for Medicaid (a "penalty period") for those gifts made within five years of the date of you apply for Medicaid. Any gifts made more than five years of the date of application (the "look back period") are not subject to penalties. That's why Medicaid planning strategies should be put in place long before the need arises.

While you can't plan for the unforeseen, many people will eventually require some form of long-term care. Understanding Medicaid rules, including the five year look back period and how it relates to asset protection strategies, is an important part of effective long-term planning.

Join us for a workshop on this topic!

Lifeplan Models

With the New Year we begin the Annual Asset Alignment Review for all of our Lifeplan™ clients. Lifeplan™ services come in two models: *Lifeplan Standard*™ and *Lifeplan Plus*™. Both services include regular communications from us, meetings designed to review planning and planning options, keeping plans up-to-date, helper training and coordination, and working with you and your other professional advisors to monitor the title to your assets.

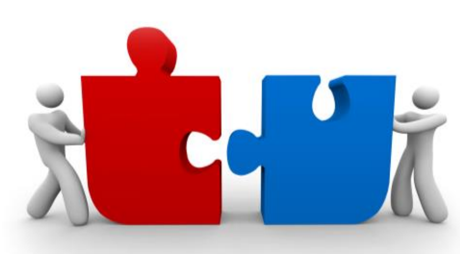
For *Lifeplan Standard*™, the annual price covers the following: Price cap for estate settlement; Updating you and your plan every 2-3 years; *Word processing changes* and changes we recommend (substantive changes and other matters priced separately); Annual asset review reports; Asset alignment education; Reduced price for titling services; Communication with helpers as requested; Family/advisor meeting; Lifeplan events, luncheons, and workshops; and *Helper* and *Inheritance* training.

For *Lifeplan Plus*™ the annual price covers all the services provided in *Lifeplan Standard*™ plus: Lower price caps for estate settlement; All changes to your plan: word processing and substantive changes (not including out of state legal fees); Priority in processing; Red Book maintenance; the Helper Toolkit; Annual private update meetings, if desired; and Ongoing titling support (not including expenses and out of state deeds).

Asset Consolidation

One of the most important steps in estate planning is to make sure all your assets are aligned with your plan. This is sometimes called "retitling your assets." The goal of asset alignment is to assure your plan controls your assets in the manner you have designed it to. Asset alignment is one of the most frequently overlooked aspects of estate planning. It is absolutely critical to the success of your plan. It is key to creating a plan that will work for you and for your beneficiaries!

The first step of asset alignment is to consolidate your assets. The fewer different accounts you own the better. Asset consolidation simplifies the planning process today *and* tomorrow.



Consolidating your assets before aligning them with your plan will save you and your beneficiaries, agents, executors, and trustees' time and money. Consolidation and proper alignment of your assets will make your job easier and your helper's jobs easier! Anything you can do to reduce the number of assets needing to be aligned with your plan will streamline the process. Asset consolidation and proper alignment will benefit you and it is an act of kindness to your loved ones and helpers. Give us a call if you want any more information on how to begin consolidating today.

Join us for a workshop on this topic on June 17th!

Productivity Tips for the New Year

Are you feeling bogged down in a swamp of clutter, deadlines, and incomplete tasks? As we begin the New Year, make it your goal to do a few simple things over the course of a day that will result in increased productivity and peace of mind for 2020.

Clean Up Your Technology

Just as you regularly clean your home, your technology should be decluttered to help it—and you—function more efficiently. It may seem tedious, but you can listen to your favorite tune or watch an old movie while you quickly refresh your technology.

- ❑ If your voice mailbox is full or nearing capacity, it only takes a few seconds to delete old messages.
- ❑ If your email inbox contains more than a few unread messages, skim them, reply when necessary, and delete or archive old messages. If your inbox is frequently inundated with promotional emails, unsubscribe from them to permanently reduce the clutter.

- ❑ Similarly, if your cell phone is crammed with apps you never use, remove them so that only the apps you actually need remain.
- ❑ Clean up the hard drive on your computer. Check your computer's storage settings and delete unnecessary files or move old files you want to keep to an external drive.
- ❑ If it has been a while since you updated your Facebook, or other social media profile, it is a good idea to review your privacy settings, remove access to third-party websites and applications you do not use, review your friends and followers to make sure you still want them to see the content you are sharing, look at groups you have joined to see if there are any you are no longer interested in, and remove any tags you do not want to share.
- ❑ Last but not least, physically dust and wipe down your laptop, mouse, phone, and other devices with an electronics-friendly spray and wipe. These devices harbor an astounding number of germs—more than the typical toilet—which can make you sick if they are not cleaned on a regular basis.

Knock Out Your Financial To-Dos

There are several financial deadlines, some of which may result in lost opportunities, forfeitures of funds, or even tax penalties if they are left undone. Make sure your hard-earned money is working for you.

- ❑ Take a look at your 401(k) plan to see if you can meet the annual contribution limit if you are not presently on track to do so. If you are able to contribute more, you may be able to increase your election. In 2020, investors can contribute a maximum of $19,500—and those age 50 and older can make an additional $6,500 catch-up contribution, lowering their taxable income for the year the contributions are made. While you are at it, review your asset allocations, and check to see if your account needs to be rebalanced.
- ❑ Use up the funds in your medical or dependent care flexible spending accounts (FSAs) to prevent your contributions from being forfeited. These accounts allow you to make pre-tax contributions to pay for certain qualifying medical or childcare expenses, but they often must be depleted by December 31st, as rollovers are typically not permitted, although some medical FSAs allow $500 to be rolled over to next year and others have a grace period option allowing employees to incur expenses for two and a half months after the end of the plan year, e.g., until March 15th for a plan ending December 31st.
- ❑ Take the required minimum distributions (RMD) from your Individual Retirement Account (IRA), 401(k), or other retirement savings plan if you were over 70 ½ last year, or over 72 this year. Under the SECURE ACT, effective midnight December 31, 2019 RMDs must begin at age 72. If you do not take your RMD by December 31st, the IRS can impose a stiff penalty—50% of the amount of the distribution you neglected to take, which could amount to thousands of dollars.

Wrap Up Loose Ends

Often, things we consider urgent take precedence in our schedules, and equally important personal tasks can be pushed aside. Set aside a few minutes to take care of some personal matters before the end of the year.

- ❑ According to the REAL ID Act passed by Congress in 2005, by October 1, 2020, everyone is required to have obtained a REAL ID compliant driver's license or ID from their state's driver's licensing agency if they wish to fly on a commercial aircraft or gain access to federal facilities. It is better not to wait until the last minute, as often, the DMV will not be able to provide the new card the same day but will have to mail it to you. If you do not have a REAL ID, you will be out of luck when you try to board that business or personal flight scheduled for October 2, 2020.
- ❑ Call an old friend you have been meaning to contact. Reconnecting with important people in our lives can be one of the most energizing things we can do for ourselves.

Meet Estate Planning Deadlines

Each year, there are several tasks that will ensure your estate planning goals are accomplished, particularly those providing tax benefits.

- ❑ Under current law, you can give away $15,000 per person, per year, without paying any gift tax on that transfer or affecting the unified credit amount. If you would like to make tax-free gifts this year we recommend making the gift(s) <u>now</u>, while you can.
- ❑ If you have created an irrevocable life insurance trust (ILIT), you should make a gift to the trust in the amount of the premium due for the insurance policy in plenty of time for the trustee to send out the "Crummey" notice to the trust's beneficiaries letting them know of their right to withdraw that amount before a specified deadline (at least 30 days' notice should be given) before paying the premium. Regardless when next year's premium is due, it is a great idea to make the payment well in advance to reduce the likelihood of missed deadlines. This will ensure that the insurance proceeds will not be included in your estate for tax and probate purposes.
- ❑ Consider new strategies for your charitable giving before the end of the year. Under the new tax law passed in 2017, the standard deduction was nearly doubled and is now $24,800 for married couples filing jointly. As a result, some have considered making contributions in one year that they previously would have made over the course of two years to enable them to benefit from itemizing deductions. For example, if a couple has $10,000 in local property taxes and $5,000 in mortgage interest expenses, and they normally would have made a $7,500 annual contribution to their favorite charity, they would not benefit from itemizing their deductions, as the total amount they could deduct is $22,500. If they double their contribution to $15,000 this year, that would bring their itemized deductions to $30,000, which is significantly higher than the standard deduction. Then, in 2020, they would not make a charitable contribution and could utilize the standard deduction.

A Guide to Medical Decision Making (Courtesy of Patient Choices VT)

Help Your Team Understand YOUR Goals, YOUR Fears, YOUR Values

- What is most important to you?
- What do you want to avoid?
- What trade-offs are you willing to make?

Understand Your Condition

- What is my condition called?
- How does this condition develop?
- What resources can I use to educate myself?

Treatment Specifics

- What is involved? How invasive is it?
- What is the expected recovery time?
- What restrictions do I face? What support will I need?

Benefits Of Each Option

- What will my condition be if successful?
- What are the chances of success? How long are benefits likely to last?

Risks/Unintended Consequences

- Could I be worse off? What are possible complications that could affect my health, lifestyle, or lead to more medical procedures?

For A Test

- What will we learn from the test?
- How might this change the diagnosis or treatment options?

When End-of-Life Is Approaching

- When should I consider Hospice?
- If I want to consider medical aid in dying, when would we need to start that process?

UNDERSTAND – IDENTIFY – LIST OPTIONS – GATHER - DECIDE

Titling Assets

What is ***Titling***? Why is ***Titling*** so important? How do I know if my ***Titling*** is right?

1. **The term *Titling* refers to the legal form of asset ownership.** It is the process of making sure each of your assets is owned in a manner consistent with your estate plan. Different assets are titled in different ways. For instance, if you have a trust-based plan, most, if not all, of your "nonqualified" assets (such as bank and investment accounts, real estate, tangible personal property) will be titled in your name as Trustee of your trust. If your assets are controlled by beneficiary designations, such as "qualified" assets (think retirement plans and IRAs) your spouse or the Trustee of your trust may be named as one of the beneficiaries of that asset. However, if you have will-based plan, you will likely own the assets in your name alone. We use the term ***titling*** to describe steps taken to make ownership changes of assets and to designate beneficiaries for others.
2. ***Titling* has a big impact on the effectiveness of your estate plan.** The best trust document in the world does no good if the trust assets are not titled in the name of the trust. Failure to retitle assets or designate beneficiaries properly can lead to unfavorable results, including unwanted probate administration, unanticipated taxes or benefiting the wrong person upon your death.
3. **A careful annual review of your assets is critical.** The beginning of the New Year is a great time to review your assets. The goal of an annual asset review is to answer *yes* to each of the following questions:
   a. Are *all* my Assets titled properly?
   b. Are *all* my Beneficiaries correctly designated?
   c. Do I have a Complete inventory of *all* my assets?

Consolidating assets makes titling easier. For example, if you consolidate multiple accounts into 1, you will only be retitling 1 account; rather than dealing with 3 different retirement accounts, you can work with 1 custodian to verify the beneficiary designation. You ***will*** benefit from asset consolidation! Join us for a workshop on March 25th (Wills) and October 21st (Trusts)

The Vermont Estate Tax Exemption

Last year the legislature increased the Vermont estate tax exemption from $2.75M to $4.25M. The tax is 16%. January 2021 the exemption will increase again to $5.0M.

Planning for Transitions and Estate Settlement

Problem: It is common for utility accounts to be set up in the name of one spouse. This presents a problem when the surviving spouse needs to make changes or disconnect services as they frequently will only accept instructions from the account holder, who is now deceased.

Solution: Call your utility companies now (phone, electric, internet, tv) and request that both spouses be added to the account. The service provider will ask to speak with the account holder on record for authorization to add a second party. For single account holders, consider adding your agent as an authorized person.

Electronic Devices: Do you have a readily accessible list of passwords for your cell phone, laptop, ipad, and all social media accounts? Does your family or a designated agent know where to locate this information in an emergency? (**See** Digital Audit form **provided in your Red Book**).

Question: My spouse died. He had a valid Will. **All of our assets are owned in joint name**. Do I need to do anything?

Answer: As surviving spouse, it's important to notify the law office who prepared your spouse's Will to notify them of the death and schedule a meeting to review current assets. By law, the original Will and a certified copy of the death certificate must be filed within 30 days of the date of death in the Probate Court.

Question: My spouse died. **All of our assets are titled in a Trust**. Do I need to do anything?

Answer: Once again, it's important to notify your estate planning attorney of your spouse's death and schedule a meeting to review the provisions of the trust and ownership of assets. The original Will and a certified copy of the death certificate must be filed within 30 days of death at the Probate Court. Additionally, there are forms and notifications which need to be prepared and signed by the Trustee. There are also a number of tasks the Trustee must tend to. Join us August 19th for a workshop on this topic!

Special Guest Speaker @ Annual Client Meeting on May 14, 2020

Catherine Florio Pipas, M.D. is a Professor in Community & Family Medicine at The Dartmouth Institute for Health Policy and Clinical Practice (TDI) and Dept. of Medical Education, Geisal School of Medicine at Dartmouth. She has been recognized as a leader in education, research and clinical care and has received many awards. She will be discussing gratitude as a strategy for personal health and wellness at our meeting on May 14, 2020.

2020 Special Events and Workshops Schedule

We host a number of special events throughout the year. The following special events are scheduled:

- Classicopia – April 17, 2020
- Annual Client Meeting– May 14, 2020
- Helper Training – June 3, 2020 and Nov.25, 2020
- AVA Art Gallery – October 21, 2020

We also host complimentary estate planning and long-term care planning workshops throughout the year. Visit our website to register for any of our events or workshops or call the office at 603-643-7577 for more information.

Caldwell Law is a proud sponsor of the 39th Annual Prouty 2020 Bike Ride & Challenge Walk on July 11th. Each year we sponsor a team in memory of Tim's sister who died from cancer in 2011. You can make a difference in the fight against cancer. To donate and/or participate, visit their website or call the office. We appreciate your support.

Our Team

Tim Caldwell, Esq.	Estate Planning and Estate Settlement
Renée Harvey, Esq.	Estate Planning and Estate Settlement
Jamie Thaxton, Esq.	Long-Term Care Planning and Real Estate
Pam Brackett	Estate Settlement Client Coordinator
Julie Cryans	Events Coordinator
Deb Eaton	Traditional Client Coordinator
Jackie Hatt	Lifeplan Client Coordinator
Terrie Kelly	Asset Alignment Coordinator
Linda Lagasse	Prospective Client Coordinator
Pam Lain	Administrative Assistant to Tim Caldwell and Paralegal
Sheila Smith	Bookkeeping

Clockwise (Left to Right): Attorney Timothy Caldwell, Jaclyn Hatt, Linda Lagasse, Deb Eaton, Pam Brackett, Attorney Renée Harvey, Attorney James Thaxton, Terrie Kelly and Julie Cryans. (Missing from Photo: Sheila Smith and Pam Lain.)