

WINTER
2007

THE Advisor

INFORMATION TO TRUST; EXPERTS TO RELY UPON

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IN THIS
issue

► *Life Insurance
Analysis is Critical*

► *Government
Restricts
Eligibility
for Medicaid*

► *Firm Honored for
Distinguished
Legal Practice*

► *Brad H. Milhauser
Joins Firm*

► *2007 Tax Update*

► *Redgrave &
Rosenthal LLP
Online*

► *Dementia and the
Need for Care
Management*

Life Insurance Analysis is Critical

Life insurance, if designed correctly, remains a significant estate planning tool. It can be used to support dependents, to provide liquidity and necessary living benefits or to serve other worthwhile purposes such as charitable giving.

Personal and financial circumstances change over the years. Certainly, estate tax laws have seen significant revisions. A sophisticated review of one's current insurance in light of the present situation could uncover any potential pitfalls or reveal possible benefits and enhancements.

An individual's insurance strategy should coincide with his or her overall estate plan. For example, the policy ownership should be reviewed to promote maximum tax efficiency and to prevent the death benefits from being included in one's taxable estate. Beneficiary designation(s) should also be reviewed periodically to ensure accuracy.

It is equally important to review the performance of one's life insurance policies. Indeed, life insurance policies have a great number of "assumptions" that were made when the policy was initially purchased. Due to lower than average interest rates and investment returns, universal life, variable life and whole life insurance policies more than 5 years old may not be performing as originally projected.

There is also a possibility that one's policies may be under-funded and could potentially "lapse" just when insurance death benefits are needed most. If not caught in time, significant capital infusions may be necessary just to keep the policies in effect. Moreover, insurance companies do not routinely notify policy owners of the potential for under-funding. Policy owners often get a rude awakening when they realize they are required to make substantial contributions to avoid having a policy lapse.

The good news is that the life insurance industry has gone through dramatic changes over the past several years in both the design and pricing of its products. Competition and increased longevity have forced insurance companies to reduce the cost of insurance. As a result, it is not

uncommon to encounter a situation where existing life insurance policies that were purchased before these changes occurred can be dramatically improved. It is possible for older life insurance policies to be restructured on a tax-favored basis to increase the death benefit or lower the cost for the same amount of coverage. Additionally, "newer generation" policies offer the comfort of knowing that the death benefit can be fully *guaranteed* even if the policies did not meet interest rate projections or investment returns. It may even be possible to upgrade policies with one's present insurance carrier(s).

"The good news is that the life insurance industry has gone through dramatic changes over the past several years in both the design and pricing of its products."

An analysis may actually reveal that an individual is over insured (especially given current estate tax exclusion amounts). In the past, it was recommended to "surrender" policies to access the cash value. Today, there is a very active secondary market that will purchase unneeded life insurance policies that could provide significant cash benefits well in excess of the cash surrender value.

Life insurance is an important asset—understand it and utilize it properly for maximum benefit. Only a thorough review of your personal and financial situation will determine how best to proceed. For more information on integrating life insurance with your estate plan, please contact our office to schedule a consultation and to begin the review process.

Government Restricts Eligibility for Medicaid

The Deficit Reduction Act of 2005 ("DRA 2005"), signed by President Bush on February 8, 2006, included major changes to the rules that govern eligibility for Medicaid, the federal/state program that helps individuals pay for nursing home and home health care. Florida is currently working on the state rules to implement the provisions of DRA 2005.

PLEASE NOTE THE FOLLOWING PROPOSED CHANGES THAT COULD AFFECT YOU OR SOMEONE YOU LOVE:

- A look back period of five (5) years for any transfers;
- In many cases, the primary beneficiary for annuities or other retirement plans must be the State of Florida;
- The period of ineligibility caused by transfers begins when the individual is in a nursing home and otherwise eligible for Medicaid;
- If the equity in a personal residence exceeds \$500,000, Medicaid can be denied; and
- The entrance fee to a continuing care community can be considered an available asset.

Before making gifts of any amount, legal advice should be obtained. Gifts, even for a legitimate purpose, such as for charity or education, can cause Medicaid benefits to be denied. The Elder Services Group at Redgrave & Rosenthal LLP can guide you and your loved ones through this constantly changing area of law.

Redgrave & Rosenthal LLP:

Honored for Distinguished Legal Practice

The firm is pleased to announce that the Martindale-Hubbell Bar Register of Preeminent Lawyers has recognized Redgrave & Rosenthal LLP for its high professional legal standards and ethics.

The Bar Register is limited to only the most distinguished and respected legal practices; those that have achieved the highest rating (AV) in the Martindale-Hubbell Law Directory (less than 5% of law firms nationwide qualify). The "A" signifies the highest

level of legal ability, while the "V" denotes "very high" adherence to the professional standards of conduct, ethics, reliability and diligence.

Such awards would not be possible without the firm's dedicated staff, and we would like to take this opportunity to thank our employees for their hard work and commitment. Likewise, the firm owes a debt of gratitude to all its clients throughout the years. It is our clients who truly make our work

worthwhile, and we offer our sincere appreciation for the trust and confidence they have placed in our firm.

At Redgrave & Rosenthal LLP, the focus of our practice is, and always will be, our clients. As we strive to build and maintain lasting relationships with our clients and their families, the firm will remain devoted to the principles of professional service that have distinguished the firm.

REDGRAVE & ROSENTHAL^{LLP}
ATTORNEYS AT LAW

Brad H. Milhauser Joins Firm



Redgrave & Rosenthal LLP is pleased to announce that Brad H. Milhauser has joined the firm as an associate in the Estate Planning Group. Brad concentrates his practice in the area of estate and gift tax planning for individuals and families. He focuses on the drafting of comprehensive, tax-efficient and sophisticated estate plans, including wills, revocable trusts, grantor retained annuity trusts and charitable trusts. In addition, Brad works closely with clients to structure family foundations and to prepare premarital and postmarital agreements.

Brad is a native of Great Neck, New York, and attended Syracuse University before relocating to South Florida to attend law school. After graduating from St. Thomas

University School of Law in May 2006, where he was a member and an articles editor of the St. Thomas Law Review, Brad was admitted to The Florida Bar in September 2006. Brad is currently a student in the Graduate Program at the University of Miami, where he is working towards a Masters of Law degree in Estate Planning.

Redgrave & Rosenthal LLP Online

The firm is pleased to announce the debut of its new updated website, <http://www.RedgraveandRosenthal.com>. In development for almost a year, the new website is part of the firm's commitment to provide the finest service to its clients. The website will expand the services offered to clients and will facilitate communications between attorney and client. In addition, the website will feature:

- A profile on the firm and its practice areas
- Attorney biographies and contact information
- A library of estate planning information, including Frequently Asked Questions
- A digital archive of previous editions of our newsletter, *The Advisor*
- The Estate Planning Forum

Perhaps the most exciting feature of the website, the Estate Planning Forum is designed to provide the attorneys at Redgrave & Rosenthal LLP with a convenient method to interact with clients, the legal community and other professionals. This page will allow the attorneys to discuss relevant changes in the law and will be frequently updated with news and notes about the firm itself.

We hope to see you online!



2007 Tax Update

With Congress unable to agree on reform, the Estate Tax laws remain virtually unchanged in 2007. The estate tax applicable exclusion amount remains at \$2 million which means that individuals with estates below that threshold are exempt from the Federal Estate Tax (assuming that lifetime gifting has not reduced the applicable exclusion amount). Likewise, the annual exclusion amount for gifting remains at \$12,000. However, the highest marginal estate, gift and generation-skipping transfer tax rate has been reduced to 45%. Currently, the aforementioned rates and measures are scheduled to remain constant until 2009, when the estate tax exclusion amount jumps to \$3.5 million. For more details, please see the chart below.

ESTATE TAX REFORM REMAINS UNCERTAIN

Due to the recent upheaval in Congress following the November election, the prospect of Estate Tax reform anytime soon seems unlikely. With the Estate Tax scheduled for a temporary repeal in 2010 (followed by reinstatement in 2011 at higher rates), the House of Representatives and the Senate have been unable to agree on a compromise. Early forecasts suggest that neither political party wants to make the Estate Tax a prominent issue during the 2008 election; therefore the current Estate Tax system will likely remain in place for the foreseeable future.

FLORIDA INTANGIBLE TAX REPEALED

Not all tax news is bad news. Effective January 1, 2007, the Florida Intangible Property Tax has been repealed. As a result, Florida residents and persons doing business in Florida (including estates, trusts and business entities) will no longer be taxed on the ownership of stocks, bonds, notes and similar types of intangible property. Accordingly, this repeal eliminates the need for the Intangible Tax Planning that this firm has previously offered to clients. Please note, however, that the Intangible Property Tax is still due for calendar years 2006 and prior.

CALENDAR YEAR	EXCLUSION AMOUNT FOR ESTATES & GST	HIGHEST ESTATE, GIFT & GST RATE
2005	\$1.5 million	47%
2006	\$2.0 million	46%
2007	\$2.0 million	45%
2008	\$2.0 million	45%
2009	\$3.5 million	45%
2010	Estate Tax & GST Repealed	35% (Gift only)
2011 & beyond	\$1.0 million	55% (Plus a surcharge for estates exceeding \$10 million)

Dementia and the Need for Care Management

As individual life expectancy increases, the common disease of the elderly generation often becomes dementia. Many individuals mistakenly lump all forms of dementia into one category-Alzheimer's disease. However, Alzheimer's is merely one specific type of dementia, which can have any number of causes such as trauma, stroke, Parkinson's, etc. Most cases of dementia begin in a similar manner with forgetfulness, short term memory loss, and/or word displacement. The onset of symptoms can lead to frustration, agitation and anxiety for the afflicted individual and for family members.

HOW DO WE KNOW WHETHER WE ARE DEALING WITH DEMENTIA OR SITUATIONAL ANXIETY?

Someone once described dementia as "not forgetting *where* your keys are, but rather forgetting *what* your keys are." Dementia, more often than not, approaches silently and slowly steals a person's cognitive abilities. It is vital to be able to appropriately diagnose dementia, both from a medical perspective (in order to prescribe medications, if needed) and from a practical, behavioral and personal safety perspective. Care Managers have the unique training and professionalism necessary to assess a person's needs at a particular stage of care and to propose a course of action to keep an individual who is exhibiting symptoms of dementia as independent as possible.

BUT MY MOTHER REFUSES TO ACCEPT ANY HELP. WHAT CAN I DO?

With the assistance of Care Managers who are specifically trained in dealing with dementia, you can learn the questions to ask and get the answers you need.

Many Care Managers have nursing or social work backgrounds and are well versed in assessing the needs of an individual and accessing the resources needed.

At Redgrave & Rosenthal LLP, the Elder Services Group, led by Sherri A. Greenblatt, a Board Certified Elder Law attorney, works closely with Care Managers, Trust Officers, Financial Advisors and Accountants to coordinate the care and to meet the needs of clients and their families. Please contact our office to learn how we can assist and protect individuals who need special care.

