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to attend the following free seminars offered by the firm...

The seminars will discuss changes to the estate tax laws and the importance of having properly drafted legal documents.

THE SEMINARS WILL BE HELD AT THE FOLLOWING LOCATIONS:

PRESENTED BY DOUG A. FENDRICK, ESQ.

Monday, June 9 • 10 am - 12 pm
Cherry Hill Public Library

Wednesday, June 11 • 7 - 9 pm
Wingate, Voorhees, NJ

PRESENTED BY JAMIE SHUSTER MORGAN, ESQ.

Tuesday, June 10 • 7 - 9 pm
Marriott-Residence Inn, Deptford

Thursday, June 12 • 10 am - 12 pm
Moorestown Community House

Thursday, June 12 • 7 - 9 pm
Wingate, Voorhees, NJ

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We are available to speak to your professional, civic, religious or special interest group on various topics (Estate Planning, Elder Law, IRA Planning, Special Needs Trusts, Disability Planning.) Give our office a call at **(856) 489-8388** to arrange a date and time or visit our website at www.fendricklaw.com

Don't forget to tune in to Doug or Jamie's monthly radio appearance on the SAVIO AND FEAST WEALTH HOUR which airs every Sunday from 9 - 10 am on AM 950 ESPN Philadelphia.

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FORETHOUGHT

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The Importance of Selecting a Proper Beneficiary for Retirement Accounts

Many individuals spend a substantial amount of time and money establishing their estate plans. Those same individuals may spend only a few minutes designating the beneficiaries of their Retirement accounts (hereinafter "IRAs"), even though their IRAs might be their largest assets. Sometimes the beneficiaries listed on a particular account are not consistent with the provisions spelled out in a Will. The result can be that your IRAs pass in an undesirable manner.

Careful attention should be given to whom you list as a beneficiary on your IRAs. The IRS rules for determining when income tax has to be paid on an account holder's death vary depending upon who is listed as the designated beneficiary. There is not a standard beneficiary designation that applies to everyone. Instead, the proper beneficiary depends on the account holder's goals and objectives.

Often married couples designate one another as a beneficiary. If a spouse is a beneficiary then this provides the most flexibility. A spouse can "roll over" IRA proceeds into their own account or leave the IRA in the deceased account holder's name as a beneficiary designated account. If a "roll over" is elected then distributions do not have to be made from the IRA until the spouse reaches their required distribution date (generally April 1 of the calendar year after reaching the age of 70 $^{1}/_{2}$). Consequently, income tax does not have to be paid until distributions are made.

If a deceased account holder has children from a prior marriage, they may not want their IRA passing directly to their spouse because they fear that the surviving spouse will exclude the children from the first marriage from receiving a portion of the account when the surviving spouse dies. Furthermore, if a trust was established by the deceased account holder in his/her estate planning documents, they may prefer the funds be placed in the trust. If a trust is the beneficiary of retirement proceeds then different rules may apply for determining minimum distributions. As long as the trust meets certain IRS requirements, distributions can be taken over the lifetime of the oldest beneficiary of the trust. If separate trusts are established for each child or grandchild of the account holder, and the trusts meet certain requirements, then distributions can be taken over the lifetime of each trust beneficiary. This will enable IRA proceeds to be placed into the trust with out triggering immediate income tax on the entire account value.

If a child or grandchild is a designated beneficiary of an IRA, then distributions can be made over the life expectancy of the child or grandchild. Usually this will provide the longest period of time to "stretch out" distributions from an IRA. However, you, as the account holder may not feel that such child or grandchild is mature enough to control the IRA and make decisions regarding distributions from the IRA. For an example, if an 18 year old were designated as the beneficiary of a $500,000 IRA, that 18 year old might be thinking "new car," while you, the account holder are thinking "income tax deferral and college education." The 18 year old might not care that, roughly, one-third of that $500,000 would be lost to income taxes if he/she were to pull out the entire amount in one lump sum distribution. Accordingly, as the account holder, you might prefer to designate a trust established under your estate planning documents, for the benefit of that 18 year old, be designated as the beneficiary of your IRA. While the Required Minimum Distribution ("RMD") amount must be paid from the IRA to the trust each year, and the trust must distribute the RMD to the trust beneficiary each year in order to enjoy the benefits of the stretch-out, the trust beneficiary has no discretion to withdraw any additional amounts from the IRA. Instead, the Trustee will have the ability to make additional withdrawals from the IRA for the benefit of the trust beneficiary, in the Trustee's discretion.

If you want to designate a trust, or trusts, established under your estate planning documents as beneficiary of your IRA, you must be careful to designate the Trustees of such trust(s) as beneficiary, and the terms of the trust must be designed in a way that will allow it to continue to defer the income.

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Please visit our website at www.fendricklaw.com

LIFE SETTLEMENTS: Unlock the Hidden Value in Existing Life Insurance Policies

With institutional purchasers spending hundreds of millions of dollars each year to purchase existing life insurance policies (life settlements), your policy may be more valuable than you realize. Life settlements occur when an investment purchaser (funded by sources such as GE Capital and Bank of America) purchases a life insurance policy from a policy owner (seller) for a cash payment. Depending on the particular circumstances, Sellers may receive tens or hundreds of thousands of dollars in proceeds, if not even more. Substantial growth in demand for insurance policies has created significant opportunities for those who carefully examine their existing policies and life insurance needs.

By way of example only (each case is fact specific), a 74-year-old male business owner originally purchased a $5 million universal life policy for a buy/sell agreement which was no longer needed. A life settlement offer of $1 million dollars was accepted. A second example involved a 72-year-old male with a $1 million term life insurance policy who no longer needed the coverage. In this case, a life settlement offer of $90,000 was accepted.

Most opportunities exist for those insured persons who are 65 years or older. People 60 to 65 years of age, however, should also undertake a review so that they are better positioned to act in the future. Age may not be a factor if the owner has a serious illness or health condition. Policy face amounts of $250,000 or greater are considered the most attractive to purchasers. Applicable policy types include Term (convertible), Universal, Whole Life, Joint and Group policies.

Policy holders are usually motivated to sell when their circumstances change, such as when: a person no longer wishes to make the premium payments, a policy is about to expire (lapse), a business no longer needs a "key man" or buy/sell policy, a divorce, bankruptcy, sale of a business, death of a spouse or other change occurs that makes the policy irrelevant. Or the owner would just rather have the cash proceeds instead of the death benefit. Settlements may be attractive even though the seller continues to have a need for insurance coverage, as in the case of an estate size reduction or they desire to "upgrade" the policy to one with more advantageous terms. In either case, the owner may sell the existing policy and use the proceeds to fully (or at least partially) fund the purchase of a new policy that better fulfills their goals, thus reducing their overall insurance expense.

If you would like to determine if a life settlement could benefit you and your family, please contact our office for further information. We work with the experienced team of GSG Advisors LLC (www.gsgadvisors.com) and together we can help you understand what opportunities may exist.

How to Prevent a Will Contest

When a family member dies, emotions can run high. If a family member is unhappy with the amount they received (or didn't receive) under a Will, he or she may attempt to contest the Will. Will contests are ugly proceedings which can drag out for years, keeping all of the beneficiaries from getting what they are entitled to. It may not be possible to absolutely prevent surviving family members from fighting over your Will, but there are steps you can take to attempt to minimize family disagreement and ensure your intentions are carried out.

A family member can challenge a Will by asserting any the following: (1) you did not have the requisite mental capacity to execute the Will; (2) someone exerted undue influence over you; (3) someone committed fraud; and/or (4) the Will was not executed properly.

You can take the following steps to make a Will contest less likely to succeed:

PROPER WILL EXECUTION.

First of all, you should make sure that your Will is properly executed. The best way to do this is to have an experienced elder law or estate planning attorney assist you in drafting and executing the Will. Wills need to be signed and witnessed, usually by two independent witnesses, and should also be notarized.

EXPLAIN YOUR INTENTIONS.

If you talk to your family and explain to them why you decided to leave your assets in the fashion that you did, they may be less likely to contest the Will. It may be a particularly good idea to talk to family members at the time you execute your Will to explain to them why someone may be left out or receiving a reduced share. Or, if you do not wish to discuss your intentions, you may want to provide some explanation in the Will itself. You could also attach a separate writing to your Will, explaining why you chose a particular distribution scheme.

INCLUDE A "NO-CONTEST CLAUSE".

Also known as in terrorem clauses, a no-contest clause is a provision in your Will which states that if an heir challenges your Will and loses, he or she will receive nothing from your estate. These clauses only operate as deterrents if the heir stands to receive something of value under your Will; otherwise, there is nothing to deter them from challenging

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Is it Better to Remarry or Just Live Together?

Finding love later in life may be unexpected and exciting, but should it lead to marriage? The considerations are much different for an older couple with adult children and retirement plans than for a young couple just starting out. Before deciding whether to get married or just live together, you need to look at your estate plan, your Social Security benefits, and your potential long-term care needs, among other things. Whatever you decide to do, you may want to consult a lawyer to make sure your wishes will be carried out.

Here are some things to think about:

ESTATE PLANNING.

Getting married can have a big effect on your estate plan. Even if you don't include a new spouse in your will, in most states spouses are automatically entitled to a share of your estate (one-third in New Jersey and Pennsylvania). One way to prevent a spouse from taking his or her share is to enter into a prenuptial agreement in which both spouses agree not to take anything from the other's estate. If you want to leave something to your spouse and ensure your heirs receive their inheritance, a trust may be the best option.

LONG-TERM CARE.

Trusts and prenuptial agreements, however, won't keep a spouse from being responsible for your long-term care costs or vice versa. In addition, getting married can have an effect on your or your spouse's http://www.elderlawanswers.com/elder_info/elder_article.asp?id=2751 Medicaid eligibility. If you can afford it, a long-term care insurance policy may be a good investment once you remarry.

THE FAMILY HOME.

Whether you are getting married or just living together, before combining households you will need to think about what will happen to the house once the owner of the house dies. If the owner wants to keep the house within his or her family, putting the house in both spouse's names is not an option. On the other hand, the owner may also not want his or her heirs to evict the surviving spouse once the owner dies. One solution is for the owner of the house to give the surviving spouse a life estate. Once the surviving spouse dies, the house will pass to the original owner's heirs.

SOCIAL SECURITY.

Many divorced or widowed seniors receive Social Security from their former spouses, and remarriage can affect benefits. If you are divorced after at least 10 years of marriage, you can collect retirement benefits on your former spouse's Social Security record if you are at least age 62 and if your former spouse is entitled to or receiving benefits. If you remarry, you generally cannot collect benefits on your former spouse's record unless your later marriage ends (whether by death, divorce, or annulment). However, if your are a widow, widower or surviving divorced spouse who remarries after age 60, you are entitled to benefits on your prior deceased spouse's Social Security earnings record.

SURVIVOR'S ANNUITIES.

Widows and widowers of public employees, such as police officers and firefighters, often receive survivor's annuities. Many of these annuities end if the surviving spouse remarries. In addition widows and widowers of military personnel may lose their annuities if they remarry before age 57. Before getting married, check your annuity policy to see what the affect will be.

COLLEGE FINANCIAL AID.

Single parents with children in college may want to reconsider before getting married. A new spouse's income could affect the amount of financial aid the college student receives. Some private colleges may even count the combined income of a couple that lives together if they commingle their expenses.

BENEFICIARY continued from page 1

In summary, careful consideration should be given to whom you have designated on your retirement accounts. Furthermore, contingent beneficiaries should be designated in case your initial beneficiary is not living. Both your primary and contingent beneficiaries should be reviewed periodically to verify that they are consistent with your Will and your estate planning objectives. And, if you desire a trust, rather than an individual, to be the beneficiary of IRA assets in order to preserve control over the assets in the IRA, the beneficiary designations should be carefully completed and the trust must be carefully drafted so that appropriate income tax stretch-outs can be preserved.

If you are interested in leaving your retirement accounts to a trust please contact our office to schedule a consultation appointment.

WILL CONTEST continued from page 2

the Will. While these clauses can serve to deter unhappy heirs/family members, they are not legally binding in New Jersey.

ESTABLISH COMPETENCY.

A common way that family members challenge a Will is to assert that the decedent was not mentally competent when he/she signed the Will. You can attempt to avoid this by having your attorney ask you questions to establish your competency and document your estate planning file with the results of that questioning. This could involve seeing a doctor and having the doctor opine, in writing, as to your competency.

In summary, having your estate planning documents properly prepared and executed will go a long way towards protecting your Will from a challenge by a disgruntled family member. And, the freer you are with your family members about the disposition of your assets under your estate planning documents, the less likely they will be to challenge your decisions later.