

Estate & Elder Law Report

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Serving clients in Franklin, Fulton, Adams, Bedford and Cumberland counties.

WHY I AM AN ELDER LAW ATTORNEY

I have now been with R. Thomas Murphy & Associates, P.C. for over a year and have met many of you. I am awed by how many of our clients who struggle with some very difficult health and financial issues do so in good spirits, with determination and resolve.

Recently I was asked, "Why do you assist people in preserving assets from Long Term Care expenses?" I thought our clients might be interested in my reply, so I decided to partially include it in this newsletter.

A wonderful lady came

into our office the other day and she was concerned about how to pay for her husband's continued care at a local nursing home. She had been privately paying for some time and was concerned how she could continue with her remaining assets.

Until she came to our office, no one had explained the rules surrounding long term care and that she did not need to become completely impoverished before help could be given to her.

As many of you know,

rules are in place to protect the non-institutionalized spouse from impoverishment, but these rules are not easily understood.

55% DEATH TAX TO RETURN ON ESTATES OVER \$1 MILLION.

Full article page 2.

I had pleasure helping that lady understand that there are options available.

In tax planning, we discuss how to use the tax

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VETERAN'S BENEFITS AVAILABLE TO ASSISTED LIVING RESIDENTS

Many are not aware that a veteran or the widow of a veteran, may be entitled to benefits to assist in

paying for in-home or assisted living care.

If the veteran served during a period of war, as defined by Congress,

even if he or she never left the United States, that veteran or widow (er) may be entitled to

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55% DEATH TAXES 2011

NURSING HOME CARE JARGON

Community Spouse (C.S.) - The spouse not in a skilled nursing facility, including living at home, in a personal-care home, or in an assisted living facility.

The term community spouse includes estranged spouses still legally married regardless of the length of time the spouses have lived apart

No one is sure whether congress is going to change the tax law before the end of the year but it does not look good for anyone with over \$1,000,000. If nothing changes before December 31, 2010, then all estates with over \$1,000,000 may be subject to a 55% death tax as of January 1, 2011.

Although this tax will not affect many of our

All estates over \$1 million will be taxed at 55% in 2011.

clients it will cause a significant tax burden to some.

Therefore, R. Thomas Murphy & Associates recommends that should it

appear your combined net worth is close to or over \$1 million, you contact our office before the end of the year to discuss estate planning techniques available to reduce this significant tax.

While Congress may act before the year's end to allow families to pass on a larger portion of their hard earned savings free, from the 55% tax, we advise that our clients prepare themselves.

Document Discussion

Mental Health Power of Attorney — An agent named by a Mental Health Power of Attorney (MHPOA) has a fiduciary obligation to put the interest of the Principle (person signing the MHPOA) before their own interests.

In 2007, the Pennsylvania legislature passed a law which states that an individual must name a health care agent and specifically grant to the agent the authority to make mental

health care decisions for the Principle. Without specific language, an agent would not be able to make health care decisions relating to mental health issues.

The MHPOA becomes very important should an individual develop an organic brain syndrome, which is a general term that refers to a disease which may cause a decrease in mental functions. Some examples include: Parkinson's disease, dementia, Alzheimer's, brain injury, multiple sclerosis and other similar disorders.

Our experience has been that if an individual is in

need of mental health services, including: drugs; therapy; treatment; facilities, including lock down facilities, an agent using a normal POA is unable to make those necessary decisions without the Mental Health language in their documents.

At R. Thomas Murphy & Associates, P.C. we prepare a stand alone MHPOA for our clients which specifically states what treatment preferences the Principle may have and directs the agents to make the best decision possible using the MHPOA as a guide in that process.

Why I am an Elder Law Attorney

(Continued from page 1)

code to ensure maximum tax savings for businesses. I now do the same thing for families—I use the long term care rules to ensure maximum protection for families. I feel that a large part of my job is to teach clients about the laws and regulations controlling long term care and what their rights are.

We were able to help the concerned lady that came into our office protect what little she had left from future long term care expenses and, we often can help all of our clients use the long term care laws to protect what they have worked for from the devastating effects of a \$250/day nursing home bill.

If you know of a family

member, friend or neighbor that is dealing with long term care issues, let them know that there is help available and someone willing to explain what options they may have. We are happy to discuss planning tools and techniques and teach how the rules will affect you and your families and friends .

— Jared Childers

True or False:

If a spouse is admitted to a nursing home, the spouse at home must spend all of their cash and savings on nursing home costs.

False

In fact—

The rules allow a protected share to be set aside for the non-institutionalized spouse and with some simple steps more may be protected from long term care expenses.

VETERAN'S BENEFITS AVAILABLE TO ASSISTED LIVING RESIDENTS

a cash payment to help pay for the cost of the assistance of another individual.

This underutilized program currently provides for up to \$1950/month

for a veteran who has sufficient unreimbursed medical expenses. To qualify, the applicant must be medically and financially eligible.

To be medically eligible, the applicant must need the constant aid and attendance of another individual. Residing in an assisted living facility will likely be sufficient. If the applicant remains at home, a doctor can certify the medical needs of the veteran.

To be financially eligible, the veteran must meet the income and asset limits, which requires an analysis of the veteran's medical expenses, income, life expectancy and net worth.

Tom Murphy has recently been appointed to the Joint State Government Commission Advisory Committee on Decedents' Estates Laws, which assists the Commission's Task Force on Decedents' Estates Laws in making recommendations to the General Assembly on changes to laws affecting Pennsylvania estates. Tom will serve with a distinguished group of experts from around the Commonwealth on matters concerning estates, trusts, power of attorneys and related issues.

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We Are on the Web!
www.rthomasmurphy.com

As part of our commitment to the Community, our staff provides presentations and trainings to local civic, church and professional groups on a variety of Long Term Care, Estate Planning, and Asset Protection topics.

Contact us to schedule a presentation.

Tom Murphy speaks at 10th Annual Senior Fair in Chambersburg

Tom Murphy of R. Thomas Murphy & Associates, P.C. was invited to speak during the luncheon at the 10th annual Senior Fair, which was sponsored by The Village of Laurel Run and Representative Rob Kauffman. Tom spoke to a crowd of approximately 400 of the 1800 seniors who had come to attend the fair.

Tom spoke briefly about the importance of having proper documents in place before a need



Tom at Senior Fair

arises. He told the crowd that after someone has developed dementia it may be too late to have them sign a Power of Attorney. He urged the crowd to be

prepared for their futures.

Tom also gave information about the probate process and inheritance taxes, as well as briefly explaining the difference between the federal gift tax rules and the gifting rules which control when an individual needs long-term care.

Tom and Jared are both available to speak to any group interested in learning more about these important topics.