

Danielle Redmond Streed
Redmond & Redmond, PLC
480 W. Lovell, Kalamazoo, MI 49007
Phone: 269-276-0055/Toll Free: 888-573-0114
Email: dstreed@ameritech.net
www.redmondoffice.com

YOUR ESTATE MATTERS

Redmond & Redmond News

I hope all of you had a healthy and prosperous 2003. I am pleased to say that in September of 2003, I celebrated my two year anniversary at Redmond & Redmond. In January of 2003 my Father-in-Law, Robert Redmond became of counsel to the law firm and we filled his office with a new attorney, Jeffrey J. Dufon. Jeff was a Kalamazoo County Prosecutor for six years before he went into private practice. Jeff handles all criminal matters at our office, including juvenile law. Oddly enough, Jeff and I graduated from Cooley Law School at the same time. Jeff is a wonderful addition to our practice. My husband, Todd continues to focus his attention on personal bankruptcy law.

Tax Law Changes

In 2004, the unified credit, or the amount an individual can pass tax free at death increased to 1.5 million. It will remain at this amount through 2006. The gift tax exemption, the amount you can gift to anyone without either party having to report the gift, remains at \$11,000.

A Year of Changes

2003 proved to be a big year of changes for many of my clients. Changes, both good and bad, that had an affect on the client's existing estate plan. Such changes included the divorce of a child, remarriage of widows and widowers, retirement, job loss, inheritance resulting in increased wealth, and many more changes. If you have experienced a change in your life, take a moment to look at your estate plan and make sure that it still reflects your wishes. If you have any questions about your estate plan or if you have experienced a change of any kind, please call me at the office or email me so we can keep your file updated.

Estate Recovery Act

Many of you may have seen the article in the newspaper on the Estate Recovery Act. After receiving several calls regarding the likelihood of Michigan adopting such an Act, I have the same unfortunate answer. I do not have anything to report at this time. We are one of two states that has not enacted a law to address this issue. Here is how an Estate Recovery Act can work. If an individual goes on Medicaid for nursing home assistance, there are several assets that are "protected" from liquidation solely to pay the nursing home bill. Such assets include a home, one car, personal property, \$1,500 cash value of a life insurance

policy and \$2,000 in cash. Currently, if a Medicaid recipient dies, the protected assets can pass to the heirs with no interference from the State of Michigan. Under an Estate Recovery Act, the State would be allowed to put a lien on certain assets as a way to recoup the costs incurred by the State for the Medicaid patient. Should Michigan enact an Estate Recovery Act, we would post this information on our new website. www.redmondoffice.com The only way to quit worrying about the effects of an Estate Recovery Act is to do one of the following: 1) Save enough money to privately pay; 2) Take out a long term care policy; 3) Quit worrying about leaving your kids an inheritance and spend the money on the best possible care for yourself and/or your spouse.

Medicaid Planning

The flip side to all of this is that you can plan ahead and protect some of your assets for your spouse or surviving children. This is important if the nursing home patient is married and the spouse is able to continue to live at home. Medicaid planning can mean a lot of different things. The thing to remember is that the State of Michigan, directly and by default, gives us pre-planning options. If you are concerned about a family member entering a nursing home, it is never too soon to learn about your options. Call our office if Medicaid planning is needed.

Weekly Radio Show

I am pleased to announce that my radio show "Your Estate Matters" on AM 590 WKZO will continue in the year 2004. Tune in every Tuesday morning at 7:55 a.m.

I also have a monthly article in "Ask the Expert" in the monthly Generations insert in the Kalamazoo Gazette. Another great source of estate planning advise for you, your family and friends.

UPDATE REGARDING YOUR DESIGNATION OF PATIENT ADVOCATE AND LIVING WILL

For those of you that have a "Designation of Patient Advocate and Living Will" (also referred to by many as a Health Care Power of Attorney) signed and dated before May of 2003, please pay careful attention to the information below: In April 2003, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) took effect. The law was designed to protect the privacy of your medical records. Unless the patient provides express authorization, the new rules restrict

access to protected health information. The restricted information includes such things as the patient's name, social security number, address, date of birth and condition of the patient. In fact, medical records cannot be obtained without the patient's consent.

As a result of HIPAA, previously signed Designations of Patient Advocate and Living Wills are not sufficient enough to give the "Advocate" authority to act on the patient's behalf or obtain information on the patient's condition. This office has prepared an amendment that will allow your agent to access your medical information and continue to make medical decisions for you. To simplify the update of your document we have provided the necessary language on our website www.redmondoffice.com. Go to the section marked **Articles/Update regarding your designation of patient advocate and living will**. Please print off the language provided and sign as indicated in the presence of two witnesses. Once signed, attach this amendment to your original Health Care Power of Attorney or Patient Advocate Document and provide a copy of the amendment (or the entire document) to your physician. If a copy of this document was also provided to your Advocate, make sure a copy of the signed amendment is provided as well. If you are not able to access the internet, please do not hesitate to contact our office.

RELEASE OF INFORMATION

During the last year we received many requests to send copies of the client's documents to their child that was designated as the first successor Trustee, Power of Attorney and/or Medical Advocate. Unfortunately, we had to inform the client that we are not able to honor this request. Our reasons go beyond the simple aspect of our time and cost of copying all the documents and mailing them out. Our reason stems from a problem that I experienced some time ago. At a client's request we mailed copies of their documents to their son (the first successor), but not to the other children. We received an unpleasant phone call from the child that did not receive copies. I simply advised the child that we had only been authorized to send copies to the first successor. Of course this opened a "can of worms" and created some hard feelings and distrust. It was at that point that I created a policy that I would not send copies of client documents to any child(ren). It would be the client's responsibility. Therefore, to avoid any further misunderstanding I thought that it would be best to advise all of my clients of this policy.

IRA BENEFICIARY DESIGNATIONS

In April 2002, the IRS issued new regulations for IRA distributions in 2003 or later. As part of this new legislation, the IRS created guidelines whereby a trust could be named as a beneficiary of an IRA without incurring immediate income tax liability. In order to avoid immediate income tax at the death of the IRA owner, (where the beneficiary of the IRA is a trust) the trust must meet the following requirements:

1. It must be valid under state law;
2. The trust must be irrevocable or will, by its terms become irrevocable upon the death of the IRA participant (***all my trusts are irrevocable at death***);
3. The Trust must have identifiable beneficiaries under the terms of the trust (identity must be sufficient to identify the oldest beneficiary);
4. All beneficiaries must be individuals;
5. Copies of the Trust documents must be provided to the custodian by October 31st of the year following death.

The most ideal situation is to fund the Credit Shelter Trust with non-deferred assets. Unfortunately, this is not always an option. The benefit of this type of planning is that it allows the family to fully fund the Credit Shelter Trust and truly "shelter" the maximum amount possible at the first spouse's death. It also gives the surviving spouse use of the assets without increasing the surviving spouse's net worth or creating a taxable estate at death. In second marriage planning this is a great way to provide for the surviving spouse, but preserve any remaining IRA assets for the deceased spouse's children.

For more information on IRA planning or if you have any questions, do not hesitate to contact our office or talk with your financial advisor.