

2008

Danielle Redmond Streed

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

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Michigan Passes Estate Recovery Law

In 1993 the Federal Government ordered all states to pass an Estate Recovery Law. Michigan has been out of compliance with that Federal law until 2007 when they adopted an Estate Recovery law of their own. Estate recovery means that people who receive Medicaid benefits for nursing home level care may have to repay the State of Michigan for the cost of their care after they die. Some of the key elements of the Estate Recovery Law are as follows:

1. The law only applies to "Probate assets". Therefore, assets in a Revocable Trust, assets passing by joint ownership, assets subject to a beneficiary designation, assets subject to a payment on death designation (POD) and/or life estate would not be subject to the new Estate Recovery Law.

2. Even if assets pass through a Probate Estate, there are some exemptions that can be applied to protect that asset: a) A family farm, business or other income producing assets are exempt if they are the primary source of income to the survivors; b) If the homestead is subject to the Estate Recovery Law, recovery only applies to that portion of the value which is above fifty percent of the average price of a home in the county where the home is located; c) If the homestead is occupied by a spouse or a child of the Medicaid recipient where the child is blind, disabled or under age 21, the homestead may be completely exempt or protected; d) The homestead may be completely exempt from recovery if the homestead was occupied by a relative of the Medicaid recipient and that relative provided care to the Medicaid recipient for at least two years prior to the Medicaid

recipient entering the nursing home; or e) The homestead is exempt from recovery if the Medicaid recipient's sibling is a joint owner and lives in the home.

3. Any Medicaid recovery against a Probate Estate will be capped at the actual cost of medical services paid for on behalf of the Medicaid recipient. Although the Estate Recovery program has been passed by Michigan, it will not be implemented until it has been approved by the Federal Government. **You and your family may need to review the current ownership of your assets to avoid being subject to the Estate Recovery Law in the future.**

New Redmond, Redmond & Yokom File Retention Policy

In the past, my office has retained a paper copy of your estate planning documents. Due to our storage space issues, we have decided to adopt a new retention plan. Our office will be scanning in each client's estate planning documents and retaining a copy of the documents as a PDF file. We have retained an outside company to back up our computer files off-site to insure that the documents are available to us at any time. The files are password protected and encrypted for privacy issues. Only my office will have access to this information. Please keep in mind that when you signed your estate planning documents you were provided with a full set of the original documents and our set is just a second copy for our records. However, we would like to make this extra set available to each of our clients as we begin transferring the documents from a

paper file to a computer file. It is our intent to have all of our client documents scanned in and saved as a PDF file by July 1, 2008. Prior to that date, we would ask that you contact our office if you are interested in picking up the extra copy of your estate planning documents. If you are not able to stop into our office to pick them up, we would ask that you send us a self-addressed envelope and a check in the amount of \$4.60 for postage and your documents will be mailed to you. **If we do not hear from you by July 1, 2008, your documents will be shred at that time.**

Personal Property List

When I meet with each Will and/or each Trust client my office provides you with a *Tangible Personal Property List*. It is a simple form that allows you to hand write a list of personal items you would leave to a specific person. The list requires that you sign it, date it and that the list be in your own handwriting. Many of our clients have sent us a copy of that list for our records. Many of our clients have never completed it and many have completed it, but never sent us a copy. Due to a recent incidence where the Trustee was not able to find his mother's Tangible Personal Property List, we are now encouraging our clients to send us a copy of that *Tangible Personal Property List* for our records. We will scan your *Tangible Personal Property List* into our computer file and retain a PDF file in the event the actual original is lost or destroyed. Since many personal property lists are completed after the estate planning documents are signed at my office, this information does not always get back to us. Just remember, that any *Tangible Personal Property List* needs to be in your own handwriting, signed and dated. If you have typed up the personal property list on your computer you will need to have your signature witnessed or notarized as proof of your wishes.

On-Going Services Provided by Redmond, Redmond & Yokom

During the course of the last year, my office has received several phone calls regarding changes or amendments to a client's estate planning documents. In a few of those situations the client believed that the amendments to their documents were free of charge. To avoid any misunderstandings in the future, I wanted to remind each of you that our office provides a variety of services at no charge, including phone calls and emails about your estate plan and assisting you with the preparation of new transfer forms. However, there is an hourly charge for any actual changes or amendments to your estate planning documents. We apologize if there has been a misunderstanding regarding this matter, but we wanted to make sure it was clear from this point forward.

What Financial Statements and Documents are Important and Which are Not?

Many times when I meet with clients they ask me what documents, other than their Estate Planning documents, they need to keep and for how long. Generally, your accountant or CPA will recommend that you keep your tax returns for up to seven years. However, I would recommend that you contact your own individual CPA or accountant and ask what they recommend as they may suggest a longer period of time if you have a certain type of business or if you have had problems with your tax returns in the past.

A lot of clients will keep tax records from the 1960's, along with old bank statements and utility statements. Many of these old records could have been shred or destroyed a long time ago. What you need to keep in mind is that you potentially may be leaving your family a big mess. Many times families do not have the time or do not want to take the time to go through old

documentation and are eager to toss it out. What family members may not recognize is that valuable documentation or important asset information may be mixed in with the old documentation. Consider taking the time to go through old files and begin shredding those things that are outdated or are of no value to you at this time. On the flip side, many of you are so organized that you have created computer files which outline your assets, bank account information, and the location of important documents. Unfortunately, many of you have set up these computer files as password protected and have not provided the password or location of that password to your administrator or a member of your family. If you have passwords to a computer file or if you have something as simple as keys to a safe deposit box, make sure that you have made this information available to someone you trust that can later gain access to this information.

Life Insurance and Stock Ownership

Many years ago, companies like Prudential and Met Life went from a privately held insurance company to a publicly traded company. For anyone who owned a life insurance policy through one of these companies, the owner received notification that they were now a shareholder as well. The number of shares you received is typically based on the amount of insurance you had with the company. In the last few years, I have had several clients pass away owning Prudential and Met Life insurance and they had forgotten about the stock ownership because it was of nominal value. Typically, when the stock was issued it was issued in the name of the insured only and was not issued as a joint stock between a husband and wife. Therefore, upon the death of the first spouse many surviving spouses wondered what to do with this individually owned stock. If you have been receiving statements from a transfer agent advising you that they currently hold stock on your behalf, it is important that you transfer

ownership of that stock into your Trust if you have one. If you do not have a Trust, you should contact the company to determine if they will allow you to make the stock payable on death to a beneficiary or joint with your spouse or family member. This will eliminate your Trustee or administrator from having to deal with one more loose end. If you have this type of stock, all you need to do is contact the transfer agent listed on the most recent statement you have received, by mail or phone, and ask them to send you the necessary form to change the ownership or make this stock payable on death.

EMAIL ADDRESSES

If you have an email address and are comfortable having my office contact you through that address, please email my assistant Mary at mhendrixon@ameritech.net so that I can update my files. In the future, we would like to email this newsletter to you.