

Financial Planning for August 2007 Trust the Government to Help Disabled Relatives?

This month, we will be talking about “trusting” the government to see to the proper care of disabled children and relatives. This won't be a pep talk on how you can rely on Uncle Sam to see that those you love will live in comfort, both now and when you are out of the picture. Instead, we will discuss some of the government programs that can help support a disabled child or other relative - and how to preserve their eligibility to access federal and state funds, while providing for the extras that make life enjoyable.

Ask any three CPAs if there is a way to set up a trust to provide a ‘better than sustenance’ lifestyle for someone who is disabled and you will probably receive three different answers – yes, no and maybe. To some degree, all of these will be correct, but “maybe” is the best one, because the answer to that question really depends on what you want to achieve.

If you are fabulously wealthy and just want to take care of your loved ones, set up a trust and fund it to the extent necessary to do the job. What? So you're not fabulously wealthy, but could establish a living or testamentary trust to provide some creature comforts to improve a disabled relative's quality of life? There may be a way to establish a trust to take care of certain expenses, while relying on governmental assistance for basic needs. If neither is true, but your wife, child, or other loved one is disabled due to another's negligence, perhaps a legal settlement is in the works. The proceeds of that agreement may be put in trust, but basic living expenses could still be covered through government programs.

Does the idea of putting money in trust (to shelter the income and resources from the means-testing requirements of certain government programs) seem far-fetched or perhaps even a little illegal? If you use a competent attorney, whose expertise is in “special needs trusts”, and you follow the rules, the plan is not as difficult as the government might have you believe.

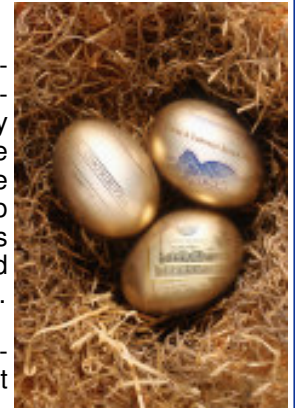
Are your resources or income high enough to make accepting government assistance for your child or other relative feel just a little awkward? Put that thought out of your mind. As one CPA said, why shouldn't his child benefit from the taxes he and his wife paid? The point is: you should never forego any assistance that is legally due you because of the false perception that you have too much money to access government assistance. Remember, you pay the government's bills, so you are only getting back a little of what you have deposited (and the return on your investment is probably pretty small anyway).

Now that we've established your right to have what you're legally entitled to, let's look at a few ways the government can help support that disabled relative:

Let's say you make \$100,000 per year and your health insurance is 100% funded by your employer. Would you think that your five-year old might be entitled to Medicaid assistance? If you said yes, you must have experience in this area! Most people realize that Medicaid is both resource and income tested, but fail to understand that the “resources and income” are those of the recipient - and that recipient could be your five-year old. The truth is that it's likely you could be a billionaire and your child still qualify for Medicaid assistance, if he or she has no assets or income. Don't overlook this possible source of support for your child's needs. Just be aware that the rules governing qualification vary from state to state and you must seek competent counsel in your state to preserve your rights.

The Social Security Administration also administers programs to help the disabled. Social Security Disability Insurance (SSDI) can assist adult children (age 18 or older) if they meet certain requirements that include their impairment and meet the definition of a disability for adults. The impairment must begin before age 22 and their parent must have worked long enough to be insured and be receiving retirement or disability insurance - or be deceased.

Supplemental Security Income (SSI) pays monthly benefits to the elderly, blind or disabled who do not own much and who have little or no income. This program is available to qualifying persons based on income and resources and, in the case of children up to age 18, based on their and their parents' income and resources.



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Quill

NEWSLETTER



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Financial Planning for August 2007 Trust the Government to Help Disabled Relatives?, continued

Government programs are fine if you meet the qualifications, but they generally provide only a minimal level of support. In other words, you will have a roof over your head, some clothes, and the government's definition of food. While these will sustain life, they typically do not provide a very enjoyable quality of life. That's why those planning for someone with a disability try to provide a mechanism to pay for more amenities without losing access to basic governmental resources.

You might be able to accomplish this goal by establishing a "special needs trust" that is funded either with the proceeds from legal settlements, an individual's own assets, or the assets of another placed in a living trust or testamentary trust. It is impossible to state with certainty that use of such a trust is available in your state, due to the variation in laws between states; however, it is imperative that you contact a competent attorney to investigate the possibility. (*available in Maine*)

A "special needs trust" provides the trustee with the authority to use the funds to pay for extras, such as education or entertainment, to help the beneficiary maintain a reasonable quality of life. With some creativity, the funds can even be used to provide better-than-basic living conditions. The key is that the trust cannot be used to meet basic needs, but supplemental health and other costs may be paid from it. Among the advantages of such trusts are: the ability to access public funds without spending down all assets to meet statutory requirements; the ability to use the Medicaid system to purchase medical equipment at prices far below that of "private pay" individuals; the ability to use every source of funds possible (since many people with special needs are outliving their primary care providers); and, of course, the ability to enhance a loved one's quality of life.

The biggest drawback is that Medicaid will have a lien on trust assets for any costs it pays during the recipient's lifetime, but this concern is far outweighed by the ability to provide a higher standard of living for your child or loved one. Additionally, with proper planning, the assets that remain upon the beneficiary's death can be limited to minimize the amount available to reimburse Medicaid.

Social welfare programs place a tremendous amount of strain on state and federal budgets and governments constantly change rules to minimize the strain. If you are in a position where a "special needs trust" might be of value, let's talk. We will be glad to assist you and your attorney in identifying your needs and determining the optimum funds necessary to meet those of your loved ones. Structuring a plan that allows you to maximize the use of public funds is complicated and requires consulting an attorney who is an expert in serving those with special needs. Then again, isn't the smile on your loved one's face enough to compensate for the effort?

GASB Pursues Fund Balance Clarity for Governments

by Patrick Sage



In October of 2006 the Governmental Accounting Standards Board (GASB), which is responsible for developing standards of state and local government accounting and financial reporting, issued an Invitation to Comment titled "Fund Balance Reporting and Governmental Fund Type Definitions". An exposure draft is planned to be released in November. The stated purpose of this GASB project is to assess whether existing reporting requirements related to fund balance reporting adequately meet the needs of financial statement users, and will consider potential changes to improve the usefulness of fund balance information.

Fund balance is the difference between assets and liabilities in the governmental funds, and is one of the most important financial indicators used to assess the financial condition of a governmental entity by users of the financial statements. Bond analysts may use fund balance data in determining a municipality's ability to absorb debt service payments. Taxpayer associations may use fund balance information to call for property tax reductions. As the role of the local government evolves so does the necessity to make disclosures of fund balance more definitive as well as transparent.

The GASB took on the fund balance project to address concerns that there are misunderstandings among users of financial statements about the differences between reserved and unreserved fund balances. How governments classify reserved and designated fund balance could vary from government to government, making comparisons difficult. Differences in the way governments use other funds to account for certain activity

also result in a lack of comparability. The GASB hopes to address these issues in order to make fund balance information more useful to the readers of financial statements.

Under current standards, the portion of fund balance which represents resources that are not in a spendable form, such as inventory or long-term receivables, or that are legally segregated for a purpose more specific than the overall purpose of the fund, such as a specific capital project, is reported as "Reserved". The remaining fund balance is to be shown as "Unreserved". Unreserved fund balance represents resources available for any purpose of the fund. This unreserved amount can further be reported as "Designated" or "Undesignated." Since designating fund balance is optional it leads to more comparability issues between governments that designate and those that do not. While the current terms may still hang around, they will certainly be better defined.

The Invitation to Comment considers revisions to the definition of governmental fund types in order to bring more consistency to the resources that can be reported in various funds, and also discusses how the important aspects of fund balance can be organized and reported in the balance sheet to best address the information requirements of financial statement users.

10 Easy Steps to Help Eliminate Theft in the Workplace

by Jennifer Hight

We are often asked the question, "What can we do to help minimize our risk of embezzlement by employees?" This is a tough question, especially in complex organizations. However, there are some basic steps most organizations can implement to help reduce their exposure.

1. Conduct background checks on prospective personnel

Checking a reference often seems like a waste of time, but it is an extremely important tool. Too often reference checks are dismissed because we assume people will be hesitant to give a bad reference due to potential legal consequences. Plus, you may assume any contact a prospective employee would give you would only provide glowing reviews. Don't be afraid to ask if you may contact their current supervisor/boss if that person is not on the list. If they say "no" because they don't want them to know they are looking for a job, ask to speak to someone from their previous employment. If this too is a problem, it should serve as a red flag.

2. Employee vacations should be mandatory

Require employees to use their allotted va-

cation time. Frequently, this is when suspicions of embezzlement first pop up. Make sure employees are cross-trained so that someone else can do their job. If an employee seems reluctant to take the time off, it may be an indication that there is a potential problem.

3. Watch employee behavior

Specific areas of concern include substance abuse, gambling, high personal debt, possessiveness of work, and living beyond one's means, to name a few. Be alert to employees taking exotic vacations or making large purchases. This may be a warning sign especially if it is not normal behavior.

4. Investigate first-time vendors.

An employee independent of ordering and payment to new suppliers should call to verify the supplier's name, address, and federal tax identification number. This would eliminate the possibility of fictitious vendors being paid.

5. Review documentation for all check requests

Compare original vendor invoices, purchase orders and any receiving reports to verify quantities and descriptions. All invoices should be marked "paid" with the corresponding check number.



6. Reconcile accounts receivable and accounts payable monthly

Only owners and managers should be allowed to clear exceptions.

7. Monitor cash receipts and deposits independently of employees recording them

Someone not involved with making deposits or recording accounts receivable should open the mail, count cash received and report totals to the owner.

8. Independent bank reconciliations

The owner should receive the bank statement unopened each month. We recommend the owner review the transactions thoroughly for any alterations. The owner should also review the reconciliation once it is complete. Watch for deposits in transit and outstanding checks for reasonableness.

9. Restrict access to finances

Password-protect computer files and set dollar limits on check authorization. Only appropriate employees should have access to certain financial functions on the computer.

10. Conduct a survey or risk assessment of your business

Ask your employees where they think theft could most easily occur within your organization. This will help identify potential thefts occurring or potential future opportunities for theft.

The 'Kiddie Tax' is Modified Again

by Jack Sullivan

Barely a year after raising the 'Kiddie Tax' ceiling from age 14 to age 18, Congress has again sought to offset other tax breaks by increasing the tax on family savings, often put in a child's name and Social Security number, for future college expenses. Background: many parents gift amounts on an annual basis to their children so that the investment earnings thereon will be taxed at a lower tax bracket. With annual increases in college costs that constantly outpace inflation, it is a tax effective way to add to a college fund. Up to \$12,000 can be gifted annually by each parent to each child without triggering a gift tax. Note: these gifts help reduce the parent's taxable estate for the death tax, and take earnings out of their usually higher tax brackets, but do not garner an income tax deduction; they are not charitable gifts.

Historically, once a child reached the age of 14 they were no longer subject to the 'Kiddie Tax' and their tax rates applied to all investment income. Under that age they were allowed to pay no tax on the first \$850 of investment income, and the lowest rate on the next \$850 of such income. Amounts over \$1,700 were taxed at the parent's highest rate. The age ceiling, which changed to 18 for 2006 and 2007, has now been raised to 24 for 2008 if a child is a full time student and does not have earned income that exceeds one-half of his or her support. This nullifies the benefit of transferring appreciated capital assets to the child to sell in order to pay for their education if the child's investment income will be above the \$1,700 investment income threshold. The \$1,700 is indexed for inflation and other rules apply. Consideration should be given to selling appreciated assets of those dependents who will reach 18 by year's end. Check with your advisor for more details. Look before you give as the historical benefits may no longer be there.



Coming Soon: The New Form 990

by Peter Hall

The Internal Revenue Service has recently released a draft of a proposed new Form 990, the information return used by tax-exempt organizations to report financial and program information about their operations.

The proposed draft is designed to enhance the transparency of information provided to the IRS and the public about the organization's activities and position, while promoting compliance by more accurately reflecting the reporting organization's operations and thus enabling the IRS to form a more realistic estimate of the specific risks of noncompliance. At the same time, the IRS aims to achieve these goals while minimizing the administrative burden of compliance with these reporting requirements.

The new form includes a "core form" comprised of 10 pages, which would be required to be completed by all filers. In addition, there would also be 15 supplementary schedules to be completed on an as-needed basis, depending on the particular activities of any given organization.

The draft incorporates a one-page summary form which highlights the overall financial activities and position of the organization, with a particular focus on gaming and fundraising operations. The next three pages all focus on management, compensation practices and characteristics of governance. Filers will note that this represents a significant change in focus from the current form, as information about functional expenses, program activities and program service accomplishments are found much further back in the "core" form. The 15 supplementary schedules will be used to provide additional information as applicable, though the IRS estimates that many organizations will only be required to complete 3 of these, and fewer than 10% will require as many as 8.

The IRS hopes that this new Form 990 will serve to address many of the criticisms raised regarding the current form, including concerns that the questions and instructions are not clear and not logically sequenced, a number of items included on the form are not applicable to all organizations, and the form does not provide a complete picture of the filing organization. The IRS hopes to have this new form available for use for the 2008 tax year. The draft may be viewed and downloaded at the IRS website, www.irs.gov.



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The word "Quill" is written in a blue, serif font. To its right is a stylized blue quill or feather graphic. This logo is positioned on a light green horizontal bar that spans the width of the page.

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New Faces

Angela Lawson started with RKO in December 2006 as our Tax Department Assistant. She worked at another CPA firm in Florida for 18 months, and brings with her 11 years of experience at another large local CPA firm. Angela's roots are in Maine, where most of her family is located, and she is excited to be back. She graduated from Casco Bay College in Portland.

Timothy Gill joined the ranks of RKO as an Assistant Accountant in June. Tim graduated from UMaine in 2005 with a B.S. in Business Administration and is currently enrolled in the MBA program at USM, which he hopes to complete by December 2008. Tim's most recent work experience was with a private company where he was responsible for purchasing and inventory control.

Chris Harmon has been working with us over the past two years as an intern while he finished his degree, and he has now joined RKO as an Assistant Accountant. Before coming on full time, Chris attended Plymouth State University, where he graduated with a B.S. in Accounting. He is currently taking graduate classes online through Southern New Hampshire University and is working towards his masters in Accounting. Chris is also involved in coaching middle school hockey in Portland.

Rory O'Brien has joined our firm as an Assistant Accountant. Rory graduated from USM in May with a B.S. in Accounting and Finance and started with us in July. Rory has lived in Portland his entire life and plays in the Gorham and Portland men's hockey league. He enjoys camping, skiing and any outdoor activities. Rory plans on pursuing his masters of science in accounting at USM this winter.

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