

ELDER LAW *Update*

NEWS AND IMPORTANT INFORMATION FOR SENIORS AND THEIR FAMILIES



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Planning for Alzheimer's Disease and Other Forms of Dementia

According to the Alzheimer's Association, an estimated 5.8 million Americans are living with Alzheimer's disease. This includes approximately 5.6 million people age 65 and older and another 200,000 individuals under age 65 who have early-onset Alzheimer's. These numbers are expected to rise dramatically—every 65 seconds, a person in the U.S. is diagnosed with Alzheimer's disease.

Alzheimer's disease is a form of dementia that leads to memory loss, physical and behavioral problems, and ultimately, death. It is the most common form of dementia, accounting for between 60 and 80 percent of all cases. While there is no cure for Alzheimer's disease, numerous research studies and clinical trials are exploring ways to diagnose, treat, and manage it.

Some medications have shown promise in lessening or delaying the cognitive symptoms of Alzheimer's disease. Meanwhile, various strategies and tools have been developed to improve the comfort and quality of life of people with Alzheimer's and other types of dementia. Hopefully, medical science will soon discover more effective treatments, and one day, a cure.

While medical science cannot prevent Alzheimer's disease, proper planning can allow you to prepare for the possibility of being incapacitated by it.



(Cont.)



Planning for Alzheimer's Disease and Other Forms of Dementia (Cont.)



Planning for the Cost of Long-term Care

Given that the symptoms of Alzheimer's disease worsen over time, many families find that they can no longer care for their loved one themselves and are forced to seek nursing home care. In the U.S., the median annual cost of a private room in a nursing home exceeded \$100,000 in 2019. On average, a person with Alzheimer's lives four to eight years after diagnosis, but some people can live as long as 20 years. Obviously, very few families can afford this.

Fortunately, we can use a variety of tools to plan in advance for the possibility of needing long-term care in the future. We can also help a person with Alzheimer's become eligible for assistance from Medicaid to pay for nursing home care. This allows the family to protect assets for the benefit of the well spouse and future generations while at the same time ensuring the person with Alzheimer's receives the care he or she needs.

Planning for Loss of Memory and the Inability to Make Sound Decisions

A person with Alzheimer's disease may lack or gradually lose the ability to think clearly. This development impacts his or her ability to make decisions and participate in legal and financial planning. If you have been diagnosed with Alzheimer's disease, you should begin the planning as soon as possible.

Certain legal documents can help ensure your wishes are followed as the disease progresses and make it possible for others to make decisions on your behalf when you are no longer able to do so. These documents include:

Power of Attorney for Health Care

A power of attorney for health care allows you to name a person you trust to make health care

decisions on your behalf when you are no longer able to make them on your own.

Medical decisions covered by your power of attorney for health care can include choice of doctors and other health care providers; types of treatments; long-term care facilities; end-of-life care decisions, such as the use of feeding tubes; and do not resuscitate orders.

Power of Attorney for Finances

Similar in concept to the power of attorney for healthcare, a power of attorney for finances allows you to designate another person to make decisions about your finances, such as income, assets, and investments, when you can no longer make them yourself.

By choosing your decision-makers in advance through powers of attorney, you and your loved ones can avoid the expense, stress, delays, and potential for family infighting associated with a court-ordered guardianship proceeding.

Living Will

A living will allows you to express your wishes regarding what medical treatments you want, or do not want, in an end of life situation. A living will differs from a durable power of attorney for health care in that it outlines your wishes specifically, whereas a power of attorney for health care allows someone else to make health care decisions for you. Another benefit of a living will is that it spares your loved ones from having to make difficult decisions about your care without knowing what you would have wanted.

We are dedicated to helping families in our community who struggle with the challenges of Alzheimer's disease and want to prepare for the possibility of incapacity and the need for long-term care. We invite you to contact us at your earliest convenience to discuss your particular situation.



The Gift that Lasts a Lifetime: A College Education

According to a report by the Federal Reserve Bank of New York, approximately 44 million Americans have a combined student loan debt of more than \$1.4 trillion. The average student debt is more than \$33,000, while some two percent of borrowers owe more than \$100,000.

Given numbers like these, it should come as no surprise that the cost of a college education and the magnitude of student debt have become emotionally charged topics among students, educators, and politicians.

If you have grandchildren, perhaps you have considered helping them pay for their education. While this is one of the greatest gifts you can make—after all, education lasts a lifetime and opens a world of opportunity—you must give serious thought to how you go about it.

One way to help pay for your grandchildren's education is to simply give them part or all of the money to cover tuition. The gift tax exclusion is currently \$15,000 per person per year, and \$30,000 for a married couple. The latter amount can go a long way toward covering the cost of a year's tuition at many colleges. Of course, giving tuition money to your grandchildren directly carries considerable risk. For example, will they find some other way to spend the money, one that has nothing whatsoever to do with college?

A safer approach is to pay the college directly. In this case, the tuition payment is exempt from gift taxes, meaning you could also make a gift to cover other expenses such as room and board, books, and other fees. The same \$15,000/\$30,000 gift tax exemption mentioned above still applies.

Another option is to contribute to a 529 college savings plan, which is offered on the state level. A 529 plan is a college savings account that is exempt from federal taxes. 529 plans were introduced in 1996 to help taxpayers set aside college expenses for a designated beneficiary. These plans often have tax benefits at the state level for in-state residents. (As you would expect, this applies only in states that have an income tax.) If the maximum deduction is exceeded in a calendar year, the deduction can often roll over into later years. It is worth noting that each state enforces a specific total contribution limit, which is typically between \$235,000 and \$520,000.

Some of these plans allow for the use of various investment options. Others, known as prepaid tuition plans, let you lock in at the current cost of tuition instead of the future cost. A 529 account is not owned by the grandchild—in most cases, one of the parents owns the account, so if your grandchild does not attend college when the time comes, he or she cannot access the money. Similarly, if your grandchild doesn't want to attend a university covered by the 529 account, allowances can be made to use the funds elsewhere.

Before deciding whether to pay your grandchildren's tuition using any of these strategies, you must first ask yourself one very important question: Can I afford it? Even if you think you can afford it now, there's a possibility that you'll need that money in the future and regret having given it away.

How Does the SECURE Act Impact RMDs?

The "Setting Every Community Up for Retirement Enhancement Act" (the SECURE Act) is part of the spending bill legislation passed by Congress, which is now awaiting the President's signature, effective January 1, 2020.

The SECURE Act significantly changes the Required Minimum Distribution ("RMD") requirements for inherited retirement accounts by delaying the required beginning age. However, the biggest impact will affect your loved ones -your Designated Beneficiaries – who may be precluded from the wealth transfer technique, commonly known as the "Stretch IRA".

The following is a synopsis of four of the major changes to retirement planning upon the passage of the SECURE Act:

1. ***Extending the Required Minimum Distribution beginning date to age 72*** – Instead of a required beginning date of age 70 ½ for RMDs, the required beginning date has been increased to age 72, for those people who have not already reached age 70 ½ by December 31, 2019. So, the first RMD must occur by April 1st of the year after attaining age 72. This change will allow retirement savings to be tax-deferred for an additional one to two years lasting longer for retirement;
2. ***Limiting the "Stretch" for post-death Required Minimum Distributions from inherited retirement accounts***– Most Designated Beneficiaries will need to take distributions from an inherited retirement account within a ten (10) year period, instead of stretching the distributions over their life expectancies. This tax-generating provision will accelerate the depletion of inherited retirement accounts. *(Cont.)*



How Does the SECURE Act Impact RMDs? (Cont.)

However, there are exceptions to this rule for “Eligible Designated Beneficiaries”, such as surviving spouses, minor children, individuals with disabilities or chronic illnesses, and those who are less than ten (10) years younger than the deceased retirement account holder. Trusts for individuals with disabilities may qualify for the life expectancy method under the SECURE Act;

3. ***Repealing the age limit for Traditional IRA contributions*** – People working past age 70 ½ are now allowed to continue contributing to Traditional IRAs, as is permitted with 401(k) plans and Roth IRAs; and
4. ***Expanding access to annuities in retirement accounts*** – In-plan annuities inside of a 401(k) plan are permitted which will allow more sources of retirement income.

STRATEGIES AND OPPORTUNITIES

As part of retirement planning, it is important to analyze the projected RMDs and understand when to start and the best way to take the RMD in order to minimize income taxes. For example, Qualified Charitable Contributions from an IRA directly to a charity will satisfy the RMD requirement while avoiding income tax.

Roth IRA conversions is another strategy that can be implemented to move taxable IRA funds into Roth IRAs which are not subject to RMDs at age 72, providing more control over income. Proper retirement and estate planning are critical due to the accelerated distributions of inherited retirement accounts under the SECURE Act.

For individuals with disabilities or chronic illnesses, this is an opportunity to have inherited IRAs paid out to a Supplemental Needs Trust; thus, allowing the individual to maintain government benefits and stretch the IRA over the individual's lifetime.

Russo Law Group, P.C., is analyzing the Secure Act to understand its impact on retirement planning for our clients. It is important to consult with and retain experienced professionals. Russo Law Group, P.C., has knowledgeable attorneys who can provide retirement and estate planning legal services and advice.

For more information about this ALERT, or to review or update your retirement and estate plan, we invite you to contact us at **(800) 680-1717**, and to visit our comprehensive website at **www.vjrussolaw.com**.