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William T. (Tom) Edwards, Jr.

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Sharing Can Be Caring—For Your Estate!

Portability Extends the Value of Exemptions

Until recently, couples could not share or combine their estate tax exemptions. However, based on new federal tax laws, widows and widowers can utilize the unused portion of their deceased spouse's estate tax exemption, at least if they both die in 2011 or 2012.

Here is how sharing exemptions works. Every person has a $5 million estate tax exemption in 2011 and 2012. By sharing exemptions through a temporary estate tax law provision called "portability," a couple could pass up to $10 million to their loved ones without owing estate taxes, and with no estate plan.

For example, say you pass away first. The executor handling your estate transfers your unused exemption to your spouse. Your executor must file your estate tax return within nine months of your death; otherwise, your spouse loses his or her right to use the remainder of your exemption. Your spouse takes advantage of your remaining exemption, in addition to their own, to make lifetime gifts or to pass assets through their estate.

A better way to take advantage of the opportunity to combine exemptions—especially if current tax laws repeal themselves as scheduled in 2013—is to establish a "Bypass Trust," sometimes referred to as a "B Trust" or "Family Trust." If you pass away first, the Bypass Trust is funded up to the limit of your exemption. The Trust then distributes assets for your surviving spouse (and other Beneficiaries whom you designate) as needed while your spouse is alive. Assets in the Trust are not taxed when you pass away and are not considered to be part of your spouse's estate when he or she dies. Therefore, the assets placed in your Bypass Trust are not subject to estate tax and reach your ultimate Beneficiaries undiminished.

In the short term, portability can make avoiding estate tax a little easier, but tax laws frequently change. A Bypass Trust allows you to share exemptions without having to worry about changes in tax laws. Call our office for advice on how a Bypass Trust can help you and your spouse maximize your tax exemptions. ■

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Your Mother Moves to a Nursing Home…

Does Her House Go With Her?

Whenever someone is placed in a nursing home, their assets must typically be used to fund the cost of their care before Medicaid steps in to help defray costs. What does that mean where a parent's house is concerned?

In most states, a primary residence is exempt from Medicaid eligibility calculations, with two basic conditions: The net value of the home cannot exceed $500,000, and the owner must sign a form stating their intent to return to the home (even if that return is, practically speaking, unlikely). Yet someone must still pay for upkeep, taxes, and insurance. You could certainly step in to make these payments, but when your mother passes away, Medicaid expects to be reimbursed for the nursing home costs it covered. This means that proceeds from the sale of Mother's house may have to be used to pay back Medicaid.

If you wish to keep the home in the family, there is another option, according to national experts. If a child lives in the home for at least two years and proves that they cared for their parent, allowing the parent to avoid nursing home care during that period of time, the parent could give that child their house without incurring Medicaid penalties.

There are restrictions, however: The house can only be gifted to natural children (not stepchildren), and this gift could create tax consequences for the child. If the child lives in the house for two more years, however, they would pay no capital gains tax on the first $250,000 of the house's value. The parent in this scenario is unlikely to face estate taxes or gift taxes since they qualify for Medicaid assistance.

While Medicaid rules vary state to state, this little known provision might help your out of state relatives, even if it does not apply where you yourself live. This provision also encourages family care giving. You can provide personalized care, and in exchange, your mother can give you her house when she grows too ill to be cared for at home.

Best of all, your mother can spend more precious time in her own home, with people she loves. ■

Join the In-Touch Generation

Staying Connected is Easier than Ever

Want to stay in touch with loved ones while preserving memories and passing on your legacy? Technology makes this easier than ever. All you need is a computer or a smart phone, and distance is no longer a barrier to communication.

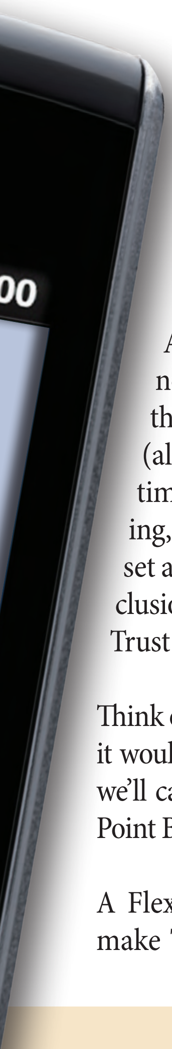
Facebook is one easy method of connecting. Set up a free account and, along with posting pictures and leaving comments, you can play Scrabble, trivia, bowling, and hundreds of other games. Through Facebook, friends and family can enjoy playing together while staying in touch, though miles apart.

Smart phones are another option for keeping in touch. With them, you can play a game with your granddaughter even if she is hundreds of miles away. You can play word games, math games, trivia games, and even action games if you want to maintain your hand-eye coordination. Apple's iPhone offers FaceTime, which allows you to video chat with your children, grandchildren or other loved ones. You can see for yourself just how they are doing.

If getting on Facebook seems daunting, your kids or grandkids will be happy to get you started. Then you can keep in daily contact with family and friends no matter where they live. Just a little technology can go a long way towards keeping your family together. Try it! ■

Keep Your Trust Options Open

Flex Trusts Provide Flexibility



A comprehensive estate plan helps you and your family prepare for the future. By definition the future is uncertain, so your plans may need to change. A relatively new estate planning tool that can provide greater flexibility and additional options is called a Flex Trust.

A Flex Trust allows an independent person—not a Trustee, Beneficiary, or spouse—to make the decision as to whether or not a Bypass Trust (also known as a Family Trust) is funded at the time of your death. Rather than simply stipulating, for example, that a specific dollar amount be set aside (typically the amount of the estate tax exclusion) when the first spouse passes away, a Flex Trust permits other alternatives.

Think of it this way: If you set up your estate plan now, it would be based on one point in time, today, which we'll call Point A. When the first spouse dies, that is Point B. When the second spouse dies, that's Point C.

A Flex Trust allows you to stand at Point B and make Trust funding decisions based on the actual conditions at the time of a spouse's death, as opposed to trying to predict the future in order to make these decisions at Point A.

For example, say the first spouse dies in 2012. The couple has $8 million in assets, and the estate of the deceased spouse is assumed to be worth $4 million. Since we do not know whether Congress will extend the current estate tax laws, funding a Family Trust is a smart option, as funding the Trust shelters the couple's funds.

In other cases, it may not be necessary to fund the Family Trust, especially if the total value of the estate is fairly low or if the estate tax is repealed. There could be other reasons to tweak the estate plan or to choose to use a Family Trust, such as creditor problems, a child with special needs, divorce and remarriage, etc. A Flex Trust builds in a measure of flexibility and creates options in the event of changes in personal circumstances or revisions to tax laws.

At Point C, when a second spouse dies, would a couple have been better off if they had put money in a Family Trust when the first spouse passed away? Today the right answer could be difficult to predict. A Flex Trust allows you to delay that decision so that the trusted, independent person you select can evaluate the options, take into account current estate tax laws, and make an informed choice based on knowledge of what the future actually brings. ■

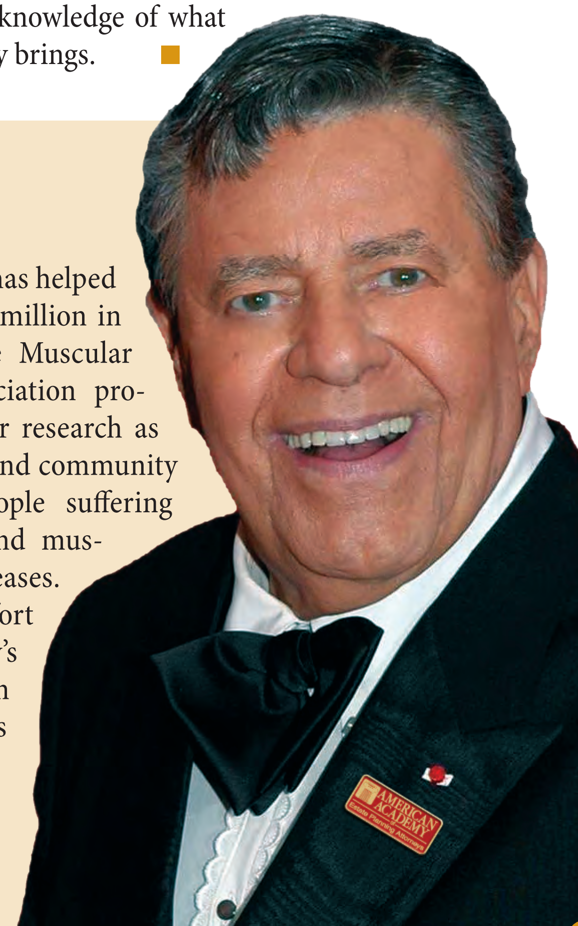
What's In a Legacy?

There is nothing funny about a debilitating muscle disease, but this individual leveraged humor and entertainment to make a tremendous difference in the lives of millions around the world.

His career as a comedian encompassed roles on radio, stage, television, and in the movies. He has two stars on the Hollywood Walk of Fame, won the *Governors Award,* which is the highest Emmy Award presented, and in 2009 was awarded the *Jean Hersholt Humanitarian Award* at the Oscars.

Yet he is most widely known for his charitable work. As the national chairman of the Muscular Dystrophy Association since its inception in 1950, Jerry Lewis has hosted a Labor Day Telethon to benefit the organization for nearly 44 years. Through this Telethon, Lewis has helped raise nearly $60 million in 2010 alone. The Muscular Dystrophy Association provides funding for research as well as medical and community services for people suffering from nervous and muscular system diseases. His tireless effort helping "Jerry's kids" has given hope to millions of people.

What will your legacy be? ■



William T. (Tom) Edwards, Jr.
The Edwards Law Firm
A Professional Association
165 Wells Road, Suite 402
River Place Office Park
Orange Park, FL 32073

Your Pet Should Have It So Good

Your pet can now fly on Pet Airways, an airline dedicated specifically to pet travel. Pets enjoy dedicated spas, pet parks and beaches, special wardrobes, and a host of other ways for their owners to spoil them.

Sending your pet on a pet airline may seem like a real luxury, but having pet planning provisions in your estate plan is not—it's a necessity. Pets are great companions, especially for the elderly. But what if your pet outlives you? It happens more than you might think, since many dogs and cats live for over 20 years and some birds live to be 80. Fewer than 20% of pet owners make provisions for the care of their pets in the event of their death or disability, which means hundreds of thousands of animals end up at shelters.

A great way to care for your pet is to set up a Pet Trust. Through this Trust, you determine who will care for your pet. You stipulate the type and frequency of veterinary care. You set standards and provide funds for daily care and expenses.

A famous example of a Pet Trust is the $12 million Trust Leona Helmsley created for her pet dog, Trouble. Your pet probably does not need to be a millionaire, but even if a relative will adopt your pet in the event of your death, you could provide the funds to take care of its day-to-day costs.

Ensure your love for your pet extends across *its* lifetime, not just yours. That is the kind of "spoiled" we all want our pets to experience. ■

Compliments of

William T. (Tom) Edwards, Jr.

Your Estate Matters comes to you compliments of The Edwards Law Firm, A Professional Association. Attorney William T. (Tom) Edwards, Jr., the firm's founder, emphasizes his legal practice to estate planning, wills and trusts, advanced estate planning, planned giving, asset protection, probate, guardianship and related matters, and is a member of the American Academy of Estate Planning Attorneys. This is a national organization committed to providing consumers with information they need to make wise estate planning choices. For a free copy of the publication *Fourteen Most Common Reasons to Do Estate Planning,* or a current schedule of free estate planning seminars in your area, contact The Edwards Law Firm at **(904) 215-3550** or visit our website **www.edwardslawfirm.com.** ■