

THE B&B ALERT

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ESTATE PLANNING FOR BLENDED FAMILIES

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A blended family is a family where parents have children by previous marriages. It can also be a situation where children have children from prior marriages. Death and divorce result in larger numbers of second marriages. Second marriages present certain planning problems that need to be addressed.

- (1) ***Emotional Issues.*** There are often emotional issues. A recently divorced client may have strained relationships with his or her children, because of the attachments those children have with the previous spouse.
- (2) ***Children from Two Marriages.*** The stepparent may have a difficult relationship with the natural child of the other spouse. An additional issue is providing for a child of a previous marriage without placing the assets intended to benefit that child under the control of the "other" and biological parent.

Life insurance is a useful tool in dealing with this situation.

- (3) ***Obligation Set Forth in Divorce Decrees, Settlements Agreements and Prenuptial Agreements.*** A settlement agreement negotiated in connection with a final order of divorce may impose obligations on a divorcing parent, such as establishing and funding trusts and designating beneficiaries to fund those trusts. It is important that the estate planning attorney obtain copies of any such agreements to ensure that the estate plan complies with those agreements.

If there is a prenuptial agreement, after the marriage has lasted for some years, the wealthier spouse often wants to deviate from the prenuptial agreement and give the other spouse a larger, more generous provision than anticipated in the agreement. If there is to be a variation from the prenuptial agreement, this should be documented in the estate plan or it may even require an amendment to the prenuptial agreement. In that event, spouses must obtain separate counsel.

- (4) ***Significant Age Differences.*** If there is a significant age difference between spouses, certain issues must be addressed. Special rules for computing minimum distributions apply if there is more than a 10 year difference in ages between the spouses.

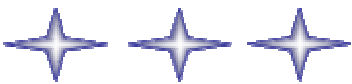
Additionally, the children of the older spouse may resent having to wait for the death of the younger spouse to receive their inheritance. Again, life insurance is a useful vehicle to solve this problem.

- (5) ***Wealth Disparities Between Spouses.*** Generally, to achieve maximum federal and state estate tax savings, the estates between spouses are balanced. If one spouse has most of the family assets and the other spouse predeceases, the family will not have taken advantage of the opportunity to fund a credit shelter trust to take advantage of the federal or state estate tax exemption. Normally, the solution would be to have the wealthier spouse transfer assets to the opposite spouse so that the maximum funding could be achieved. This may cause resentment among children of the wealthier spouse.

If the wealthier spouse supports his children in a more lavish manner than the less wealthy spouse, there may be resentment not only from the less wealthy spouse but her children as well. The situation is exacerbated if the less wealthy spouse is male. The solution may be a joint revocable trust.

- (6) ***Apportionment of Estate Taxes.*** A common method to designate payment of estate taxes is through the residuary estate. This could result in certain beneficiaries receiving virtually the entire inheritance and the tax being paid by other beneficiaries. This issue is particularly acute when inheritance passes outside the will through non-probate assets, such as beneficiary designations or jointly-owned property. There are three telltale warning signs:

- large non-probate assets passing to beneficiaries or large specific bequests passing to less than all of the beneficiaries;
- beneficiaries of each spouse's will or trust are not the same; and/or
- beneficiaries of non-testamentary trust assets are not the same.



Announcements

Begley & Bookbinder is please to announce that we have put our Preferred Client Program Video on our website. To view please visit our website at www.begleylawyer.com.

Firm Seminars

Our next firm seminar for clients on Medicaid Planning will be held on September 25th and 26th as follows:

Tuesday, September 25
7:00pm-8:30pm
Wingate Inn/Voorhees
1000 Laurel Oak Road
Voorhees, NJ

Wednesday, September 26
2:00pm-3:30pm
Mt. Holly Library
307 High Street
Mt. Holly, NJ

Wednesday, September 26
7:00pm-8:30pm
Moorestown Community House
16 East Main Street
Moorestown, NJ

This seminar is for those in need of Asset Protection Planning for themselves or a loved one that may be entering a nursing home. It's not too late to plan. **Please RSVP to our seminar line at 877-234-5393.**

Speakers

If you are interested in having an Elder & Disabilities Law Attorney from Begley & Bookbinder speak at an event, please contact Colleen Caruso at (856) 787-4237.

Begley & Bookbinder

Begley & Bookbinder, P.C. is an Elder & Disability Law Firm with offices in Moorestown, Stone Harbor and Lawrenceville, New Jersey and Oxford Valley, Pennsylvania and can be contacted at 800-533-7227. The firm services southern and central New Jersey and eastern Pennsylvania.

The Firm provides services in connection with protecting assets from nursing home costs, Medicaid applications, Estate Planning and Estate Administration, Special Needs Planning and Guardianships. If you have a legal problem in one of these areas of law, contact Begley & Bookbinder at 800-533-7227.

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- ❖ *Planning for Long Term Care*
- ❖ *Estate Planning for Parents with Children with Disabilities*
- ❖ *Understanding Estate Planning*
- ❖ *Estate Administration*
- ❖ *Blended Families*
- ❖ *Bloodline Trusts*
- ❖ *Vacation Area Homes – Tax and Management Issue*
- ❖ *Special Needs Trusts*
- ❖ *Utilizing Special Needs Trusts in Matrimonial Cases.*
- ❖ *Using Special Needs Trust to Protect Public Benefits*
- ❖ *Resolving Your Nursing Home Medicaid Application Challenge*
- ❖ *Domestic Partners*
- ❖ *Providing for Your Pet*
- ❖ *Providing for Your Grandchildren*
- ❖ *Charitable Giving*
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If you have any comments, e-mail us at ccaruso@begleylawyer.com

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