BLOISE & SNAVELY LAW OFFICE NEWSLETTER

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Protecting Assets while in the Nursing Home

Contrary to popular belief, it is not too late to save a significant amount of assets if you or a loved one are currently in a skilled nursing facility (SNF), or about to enter one. Read on to learn how you can do this.

The Medicaid law enacted on February 8, 2006, compels individuals and couples to use their own assets to pay for their own or their spouse's care. "What's wrong with this?" you may ask. "Each should pay his own way just like each should pay his own taxes." I agree, but I also agree that one should pay only the taxes the law requires him to pay. If an accountant shows me how to use the tax law to my advantage, then I am all for saving taxes and paying less. Similarly, belief in personal responsibility should not keep you from avoiding unnecessary SNF expenses. If an attorney can keep you from paying more than the law requires you to pay, then you will have more of your hard earned assets to leave your loved ones.

Anytime you meet with DSS (Department of Social Services – New York) or DPW (Department of Public Welfare – Pennsylvania) and ask for help to pay the SNF bill, the government requires you to spend your own assets first, down to a certain level, before you qualify for government funds. The government will not tell you how to use the current law to avoid spending all your assets. Nevertheless, the law allows patients or their spouses to own a certain type of investment that will not disqualify them from qualifying for aid. I counsel clients to make specific gifts to loved ones in conjunction with the purchase of this investment. This coordinated strategy has allowed me to save hundreds of thousands of dollars for families in New York and Pennsylvania, all within the bounds of the law.

If you would like more information about this strategy, please call the office for a consultation. I usually need an hour to explain how it all works. It is time well spent if it means preserving much of your estate for those you love. Tell your friends and family that there is hope.

What Do I Do With This Oil and Gas Money?

Scores of calls from Pennsylvania clients over the past several months have been about what to do with unexpected money. I like to keep things simple, so I have not been discussing elaborate plans with most of the callers. Before any elaborate planning you should get wise counsel, study, think and pray. You would never build a house without first getting blueprints and laying a strong foundation. Likewise, with your newfound money do not jump into something you do not understand that you may later regret.

Here are three simple guidelines. First, get out of debt. Don't fall into the lie that it is better for tax purposes to take a deduction on a mortgage or business loan. It is always better to be out of debt, and even more so in this current political and economic climate.

Second, give some of it away. Whether it is a church, a private school, other worthy charity or needy individual or family, you know there are those less fortunate than you. Who can argue with "It is more blessed to give than to receive" and "God loves a cheerful giver"? Call me religious or too spiritual if you want, but you were not expecting this money and God chose to bless you. It is time to pay it forward.

When I was a boy I used to think my father was crazy when he got excited about how much he was able to give. He would say something like, "Wow! We were able to give $_____ this year! That's fantastic!" I was thinking instead about what we could have purchased with that money. Of course, my dad did not make any sense until I was an adult. He operated under the principal that "you cannot out-give God," and he believed it was all God's to begin with anyway.

Third, do financial planning. You need a plan to preserve and protect what you get, both during your lifetime and upon your death. The best advice I can give you on these topics come from three articles in past newsletters entitled, "What Should I do with my Money Now," "A Financial Bunker for Scary Times" and "Save Taxes with Life Insurance." For your convenience I will reprint them here.

What Should I do with my Money Now?

(Spring 2009)

With the huge swings in the stock market, historically low interest rates paid by banks and money markets and the failures of established financial services companies, clients keep asking me what they should do with their money. First, let me begin with a disclaimer that I am not a financial planner nor do I claim to have special knowledge others don't possess when it comes to finances. Second, do not interpret what I say and the information I provide in this newsletter as my opinion as to what you should do. Everyone's situation is different, and you should always talk to a trusted financial professional before you do anything with your money. (If you don't have a trusted financial professional, I can recommend a few). Third, despite what I just said, I do pay attention to the economy and believe that I can offer helpful information.

When it comes to your money, you want it protected. Safety is paramount. What is safe today? A recent poll asked where the safest place is for your money. People voted for the mattress over banks and the stock market.

I may not understand everything I know, but I know that banks cannot pay depositors on time if enough depositors ask for their money at the same time. I know that the FDIC cannot pay off every depositor of every bank that fails if enough banks fail at the same time. I know that no one knows whether the stock market will be up next year or down.

I also know that there are a few financial services companies that could survive if all depositors asked for their money at the same time. These financial services companies are required by law to keep 100% of their customers' deposits in reserve. These companies are not traded on any stock exchange, so profits do not have to be paid out to shareholders. These companies did not negligently expose themselves to sub-prime mortgage lending. These companies offer a wide range of investments for retirement assets, fixed and guaranteed income and future growth. I know that some of these companies have been around more than 150 years.

So who are these companies? They are mutual insurance companies, particularly those with the highest ratings given the rating agencies. Primary examples are New York Life, Northwestern Mutual and Mass Mutual. These companies offer about everything you could get with a bank or broker, but they have other investment vehicles that banks and brokers typically don't offer. The following article, reprinted from Forbes, discusses one of these investments.

A Financial Bunker For Scary Times

(Spring 2009)

By John Girouard, Reprinted from Forbes.com, February 10, 2009

Suppose there was a financial instrument with a track record stretching back 1,400 years; that was so solid it could survive the Great Depression intact; that earned untaxed interest at a competitive rate; that could be borrowed against at will regardless of credit conditions; and that could be used by individuals as well as major corporations and banks as a safe harbor during economic turmoil?

You'd call it a financial bunker for scary times, and you'd be talking about mutual whole life insurance.

This is not the life insurance that only pays when you die. Mutual whole life is the kind of insurance our parents and grandparents owned in the good old days before the stock market began to boom in the 1980s and 1990s. Mutual whole life saw our elders through thick and thin, and after several decades of being muscled aside by the allure of the stock market, it's making a big comeback.

Mutual whole life policies have been an essential part of my financial planning practice for many years. But I'm astonished at how few of the many investment advisers I meet understand how mutual whole life policies work, or don't offer them to clients because they aren't sexy or new.

Mutual whole life fell so far out of favor in the 1990s that insurer Swiss Re issued a report in 1999 headlined, "Are mutual insurers an endangered species?" Not anymore.

Mutual life insurance is making a comeback now that our speculative economy has blown up and financial disaster is driving people away from risk and back to basics. Forbes magazine reported in December ("Mutual Respect") that two of the larger mutual insurance companies, Guardian Life and New York Life, reported double-digit growth in sales of individual life policies.

Mutual or "participating" whole life insurance is the closest thing to owning your own bank. As New York Life has said in its ads, "We're Main Street. Not Wall Street." The concept of mutual insurance is rather simple, especially compared with the complex annuity products that were so popular until recently. And the benefits include all those listed in my opening paragraph.

Here, for the curious and the uninformed, is *Mutual Whole Life 101,* or *The Life Insurance Policy for the Living:*

- **You Own The Bank:** Mutual insurance companies are owned by the people who buy the policies. These companies are the modern equivalent of mutual "societies" among European trade guilds of the 1600s. Guild members pooled their money to help each other and their families in times of sickness or death. Because mutual companies have no shareholders, they serve one constituency – the policyholders. Mutuals have no need to report good earnings every three months to justify a stock price, **so there is no pressure for them to take extra risk to make a profit.** [emphasis added].

- **Your Premium Payments Belong To You:** Unlike traditional term insurance, the premiums you pay for your mutual whole life policy belong to you in the form of the accumulated "cash value" of your policy. On top of that, the cash value of the accumulated premiums earns interest at a rate set once each year. In 2008, Guardian Life paid a record 7.3% dividend interest, and those earnings are untaxed! That's spectacular compared with last year's over 30% decline in the stock markets; bank CDs paying under 2% taxable, or money market rates under 1% taxable.

- **You Can Borrow Back Your Premium Payments:** Because your premiums "belong" to you as a policyholder-owner of the company, you can borrow them back any time you want for any reason you need, regardless of your creditworthiness. The death benefit of the life insurance will be reduced by the amount you borrow, and you will lose the interest you would have earned. But you can choose to pay the interest as you would for any loan, except you are paying yourself instead of the stockholders of a bank. If you pay the loan back as well, the death benefit goes back up.

- **Mutuals Offer Ironclad Guarantees:** Few people realize that the insurance industry, dominated by mutuals, was the one sector that made it through the Great Depression without a disaster and with policyholders financially intact. The cash value and the death benefit are guaranteed and tightly regulated by the states. That means your cash value is there regardless of market conditions, and when you die your heirs will receive the full face value of the policy. While stockholder-owned insurance companies saw their values fall sharply last year (remember when we taxpayers bailed out **AIG** (nyse: AIG)?), the top mutually-owned insurers saw their book values remain stable or rise.

- **Even Banks and Corporations Buy Mutual Policies:** One of the lesser-known aspects of mutual insurance is that major corporations and banks buy policies on the lives of their employees and use the cash value to fund employee benefits and as a safe harbor for working capital. By some estimates Fortune 500 companies and large banks have policies covering some 5 million employees. Instead of doing what banks say – put your money in our CDs at low rates so we can turn around and lend your money out at a profit to us – do what banks do.

- **Mutual Insurance Is One Leg of The Money Stool:** Investing should be approached as a three-legged stool. One leg is the money you need to live on in the near future (cash in the bank), one leg is the money you invest for long-term growth (equities) and one leg is the financial bunker you can retreat to when the rest of the world is falling apart and you can't sleep. Mutual whole life got our grandparents through the Great Depression, and it's going to get a lot of the people through our current calamity.

John E. Girouard (www.jongirouard.com) is author of The Ten Truths of Wealth Creation, *CEO of Capital Asset Management Group in Bethesda, Md., and founder of the Institute for Financial Independence, which provides investor education programs to financial professionals.*

Save Taxes with Life Insurance

(Summer 2007)

Pennsylvania residents already know that life insurance avoids the Pennsylvania inheritance tax. Life insurance will not avoid the Federal or New York estate tax, however, unless the owner does some additional planning. I expect this issue to garner more and more attention as the Federal estate tax threshold returns to $1,000,000 in 2011 or before.

According to a recent report in *Bottom Line,* if you want to make a large bequest to a child or grandchild, the smart way to do it may be to use life insurance instead of a bequest of property. For example, say you want to leave $1,000,000 to or for the benefit of your children. To do so in the traditional way you need to have that much in assets, and after federal and state taxes, you may need twice that much.

The better way is to fund the bequest to the children with a $1,000,000 life insurance policy held in a life insurance trust. Here's why. First, a properly structured trust will be estate tax free, reducing the assets you need by as much as half and cutting the IRS out of the deal. Second, investment income earned within the life insurance policy will be tax free. Third, the dollar cost of the insurance is very low since the value of the policy is leveraged through tax savings.

For example, a married couple, both age 60, buys a $1,000,000 second-to-die life insurance policy (that pays on the death of the survivor) for an annual premium of about $13,000 a year for 15 years. They place the policy in a life insurance trust benefiting the children. Policy premiums are gift-tax free due to the couple's annual gift tax exclusions ($12,000 per person per year). The children will receive $1,000,000 tax free at a maximum cash cost to the couple of only $195,000. Better yet, the after-tax cost may be as much as 50% less, as the $195,000 is removed from the parent's taxable estate.