



Law Office of Stephanie L. Schneider, P.A.

FL-ELDERLAW NEWS

“Proper Planning May Create Peace of Mind”sm

Law Office of
Stephanie L. Schneider, P.A.
Board Certified Elder Law Attorney

Volume 5, Issue 3
Fall 2011

New Durable Power of Attorney Law—Effective October 1st

The new Durable Power of Attorney law which became effective October 1, 2011 contains many sweeping changes that are intended to conform Florida's law to the Uniform Power of Attorney Act. A few of these changes include:

- Requiring that specific types of financial authority delegated to an agent (i.e. gifting; create or change a beneficiary designation; disclaim property) **be specifically stated and initialed** in the document.
- Authorizing a 'qualified agent' (i.e. financial institution; attorney, Florida-licensed CPA; principal's spouse and relatives) to be compensated for services rendered;
- Requiring powers of attorney **executed on or after October 1, 2011** to be exercisable immediately upon execution.
- Terminating an agent's authority upon the filing of an action for the dissolution, legal separation or annulment of the marriage of the agent to the principal.

A Springing Durable Power of Attorney is one that is effective only upon the principal becoming incapacitated (that determination is made

by the treating physician who then signs an affidavit). Springing Durable Powers of Attorney signed before October 1, 2011 are grandfathered under the new law and **will remain springing**.

Under the new law a **photocopy or electronically transmitted copy of the original is as effective as the original**. Consider an escrow arrangement with the drafting attorney.

Our firm handles estate and incapacity planning. We save families thousands of dollars by creating legal estate & incapacity planning documents that avoid guardianships or avoid probate upon their demise.

We help our clients to make informed decisions and wise investment in their future.



Has Your Contact Information Changed?

We want to keep you up-to-date on changes in the law as well as new planning options. Please notify us if your address, telephone number, or e-mail address has changed. Thank you!

Inside this Edition:

Year-end Tax Planning,
Teri Kay, CPA

Stephanie's Planning Tip
Asset Preservation
Planning—Don't try this by
yourself

The Firm's Recent Success
Thinking about Tax Season?:
Think about Identify Theft

Do it right the first time!

Our firm's vision is to create satisfied and committed clients who are empowered to make deliberate decisions that result in their peace of mind.

Call us for a consultation today and receive invaluable expert advice which may improve your quality of care and quality of life.



From Our Family
to Yours

Wishing Everyone
a Healthy, Safe and
Happy Holiday





Year End Tax Planning by Teri Kay, CPA

Planning is important to successfully minimize your personal and company taxes. While some people think “tax season” is March and April, **it really starts in November.**

Year-end tax planning begins with an estimate of your personal and/or business income, expenses, assets and liabilities based on year-to-date numbers and estimates through the end 2011 and a projection for 2012.

There are many legal and ethical strategies available to minimize taxes over time.

In creating your tax plan consider a number of factors:

- How close are you to the next higher or lower tax bracket this year and next?
- Are you expecting any life changes (marriage, divorce, retirement, babies, etc.) in the current or next year?
- What types of income and expenses do you have (wages, interest, dividends, capital gains, passive, itemized deductions, business losses)?
- Do you have or expect to have any unusual income or expenses in 2011 or 2012 (sale of property, debt forgiveness, bad debt from a customer or client)?
- Do you have any unused carryovers from earlier years (net operating losses, capital losses, charitable, passive losses,

at-risk basis limitations, investment interest expense, credits)?

- How much have you already contributed to your deductible and non-deductible retirement accounts (IRA, Roth, SEP, Keogh, HSA, etc)?

- Can you benefit from any expiring tax laws?

-Do you need any new business equipment? How much business equipment have you added already in 2011?

Do you plan any major additions – boat, plane, auto – personally?

- If your pass-through company has losses in 2011, do you have sufficient basis left to benefit from those losses?

Great tax planning is not about picking five “tried and true” tax strategies and applying them. It is analyzing your personal situation and unique tax and financial attributes and finding solutions that will best suit your needs.

There are many standard tax reduction concepts if you have capital gains, if you are on the border between itemizing and claiming the standard deduction each year, etc. A great tax plan should take into account the unique aspects of your personal situation.



Teri Kay, CPA is a Principal in the Tax Services Department with [Daszkal Bolton LLP](#) and is based in the Fort Lauderdale office . She can be reached at 561-886-5262 or email to tkay@daszkalbolton.com

Stephanie's Quarterly Planning Tip

Single Parents Need Proper Planning After Divorce To Avoid Guardianship

Do you know someone who is divorced with a minor age child or someone who has a minor age child and their spouse died? In both situations single parents need proper planning to avoid a guardianship for themselves in the event of an unforeseen incapacity or disability.

Many divorced parents only concern themselves with preparing a new *Last Will & Testament* to ensure their ex-spouse will not inherit their estate **but a Will is not going to help them while they are alive.**

Our firm helped

two families become guardians of their adult relatives who did not have Durable Powers of Attorney or Designations of Health Care Surrogates in place. Both incapacitated women were single moms whose ex-spouses predeceased them. They were raising young children alone. Both people had medical emergencies (burst aneurysm) with no warning and no time to prepare. While we could not have avoided a court guardianship for the minor children we could



Asset Preservation Planning: Don't Try This by Yourself

The worst legal mistakes I have seen (and successfully fixed) result from clients listening to their neighbors' or friends' Medicaid and estate planning advice.

This includes both lay people and advice from some professionals as well, even attorneys and accountants.

There have been a multitude of changes to Medicaid law on the federal and state levels. This area of practice is filled with landmines. With confusion comes fear. With fear people may make hasty decisions without first seeking qualified advice.

A transfer of assets or a decision made without proper legal advice can cost clients thousands of dollars as well as a delay in qualifying for government benefits (there is a 5-year look-back period). Our clients have the benefit of consulting with me, a board certified elder law specialist. A plan to preserve assets must be **carefully tailored to the needs and circumstances of each individual client of any age.**

Consider these reasons why you, your friends and family deserve to benefit from our specialized knowledge:

1. Transferring The Home-

stead: STOP! It is an exempt resource so there is no need to transfer it to a child or, anyone else. There may be a need to have the homestead avoid probate. We can help you to avoid probate and qualify for Medicaid benefits.

2. Annuities: Using annuities to preserve assets may not be as advantageous as it once was due to recent changes in the law. **If a client does not have a spouse or a disabled child, the State of Florida must be designated the first beneficiary on the policy.** There is no guarantee that the family will receive any assets. This option has limited benefits that we explore with our clients.

3. Rewarding the Caregiver Child: An adult child who cares for an aging parent can be compensated for their services within reasonable limits. We carefully structure the transaction so that assets are preserved and the elder qualifies for Medicaid benefits.

4. Transferring Income: Social Security benefits *cannot* be transferred. Some pensions can be transferred to a spouse. Certain situations are appropriate to obtain a qualified domestic relations order transferring an ill spouse's pension to the healthy spouse.

(continued on page 4)



Planning Tip (Continued)

have avoided guardianships for the parents if proper planning had been done.

If you or someone you know has minor age children suggest that they consult with our law firm about creating:

1. a Durable Power of Attorney
2. a Designation of Health Care Surrogate
3. a Declaration of Preneed Guardian for a Minor.

By taking the time to plan families can save time, privacy and thousands of dollars. Most of all they can have peace of mind.

Stephanie L. Schneider Is a Board Certified Elder Law Attorney

What does that mean?

Certification assures the public the attorney has substantial experience and has demonstrated special knowledge and proficiency in certified areas of practice and professionalism and ethics in the practice of law.

Stephanie Schneider is also accredited by the Veterans Administration to counsel clients about veterans benefits eligibility.

Stephanie is recognized by the South Florida Legal Guide and Best Lawyers in America as a **Top Elder Law Attorney.**



Law Office of

Stephanie L. Schneider, P.A.

Board Certified Elder Law Attorney

1860 N. Pine Island Rd, Suite 111
Plantation, FL 33322
Phone: 954-382-1997
Fax: 954-382-9997
E-mail: careforu@fl-elderlaw.com

Proper Planning May Create Peace of Mind SM

**Visit us on the Web
www.fl-elderlaw.com**



Government Benefits Planning:

- ◇ Medicaid
- ◇ SSI
- ◇ VA

Estate Planning:

- ◇ Wills, Trusts
- ◇ Living Wills
- ◇ Deeds
- ◇ Durable Powers of Attorney
- ◇ Healthcare Surrogate

Domestic Partner Estate Planning

Guardianships:

- ◇ Adults
- ◇ Minors

Probate

Medicaid Applications & Appeals

Special Needs Trusts

Advocating for Facilities Residents'

Meet the Staff

Yvette Wilson, Certified Paralegal
Michele Smith, Florida Registered Paralegal
Gwynne Layne, Client Liaison
Andrea Kong, Client Liaison
Hillary Josephs, Business Development Coordinator

Thinking about Tax Season? Think about Identity Theft

(Continued from page 3)

There are several ways criminals try to exploit seniors. One of the most common ways is by **stealing your identity**. Here are some tips, recommended by the Academy of Florida Elder Law Attorneys, about how to minimize your chances of falling victim to the unscrupulous:

- Shred important papers.
- Don't put outgoing mail in an unsecured mailbox.
- Don't carry too many credit cards.
- Only share personal information on the phone or Internet **if you initiate contact**.
- Use virus protection and a firewall on your computer
- Review your credit report annually.

If you suspect exploitation, here are some resources:

- Florida Abuse Hotline 1-800-96-ABUSE
- Florida Elder Help Line 1-800-963-5337
- Elder Consumer Protection Program www.elder.law.stetson.edu
- National Center on Elder Abuse www.ncea.aoa.gov
- Academy of Florida Elder Law Attorneys. www.afela.org



We counsel **same sex couples and domestic partners** who have unique needs involving estate and asset preservation planning to work within the current legal framework.

2011 Statistics

- 10,000 Baby Boomers a day turned 65 years old.
- 200,000 Floridians turned 65 years old.
- 1 in 8 Americans age 65 and over has Alzheimer's or other memory disorders.
- Almost 1/2 of Americans over age 85 have Alzheimer's Disease.