



# ELDER LAW *Update*

NEWS AND IMPORTANT INFORMATION FOR SENIORS AND THEIR FAMILIES



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## THE GIFT THAT KEEPS ON GIVING: PAYING YOUR GRANDCHILDREN'S COLLEGE TUITION

Paying your grandchildren's (or adult children's) college tuition is one of the greatest gifts you can make. The education lasts a lifetime and opens a world of opportunity for your grandchildren. In a way, it is like giving a gift to your children as well, since it alleviates their concerns about paying for their children's education on their own. And when done correctly, the gift of a college education can be an excellent estate planning tool.

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 \$14,000 per person per year, and \$28,000 for a married couple, which can go a long way toward covering the tuition for most colleges. Of course, giving the money to your grandchildren directly carries with it a big risk. Are they genuinely interested in using the money to get an education, or will they suddenly decide a year abroad, funded by your gift, might "better prepare them" for 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 \$14,000/\$28,000 gift tax exemption mentioned above still applies.

Finally, you could contribute to a 529 college savings plan, which is offered on the state level. Some of these plans allow for the use of various investment options. Others, known as prepaid tuition plans, let you buy what are called units of future tuition within your state. 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.

(cont.)



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## THE GIFT THAT KEEPS ON GIVING: PAYING YOUR GRANDCHILDREN'S COLLEGE TUITION (CONT.)

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?" You need to consider not just if you can afford it today, but whether you will be able to afford it ten, twenty years

down the road. We can help you determine whether you can indeed afford to help your grandchildren pay for college, and if so, the best strategy for your particular situation. Contact us today to schedule a consultation.

## THE BENEFITS OF AN IRA TRUST

An IRA trust can help you better control distributions after you pass away and restrict access to beneficiaries who might squander the funds of a large IRA. How? Let's say your IRA is left directly to your beneficiaries outside of a trust. In this situation, your beneficiaries can immediately cash out your IRA and spend the money however they choose. The trouble is, when the IRA is cashed out, not only is the ability to stretch the required minimum distributions (RMDs) over the beneficiary's lifetime lost, but all of the amount withdrawn will be taxable in the withdrawal year.

Or consider this scenario: If you name a minor grandchild as the direct beneficiary of your IRA, a guardianship or conservatorship will need to be established to manage the IRA until he or she reaches the age of 18. Then, when the grandchild reaches 18, he or she can withdraw all of what remains in the IRA. An IRA trust can put restrictions on how your IRA is spent, as well as when and how much a beneficiary can withdraw. This can provide important tax benefits if, for example, the beneficiary already has a taxable estate, since the IRA trust can be drafted to minimize or even eliminate estate taxes in the beneficiary's own estate. In addition, the IRA trust has the potential to create an ongoing legacy for your family, because the IRA assets not used during a beneficiary's lifetime can continue in trust for the benefit of the beneficiary's descendants.

If you are in a second marriage, an IRA trust can prove particularly valuable. In a typical second marriage situation, you'll want to leave your spouse the annual IRA income, but after his or her death you may well want to make sure that

the IRA goes only to your children, not the children from the spouse's first marriage. An IRA trust can help you accomplish this.

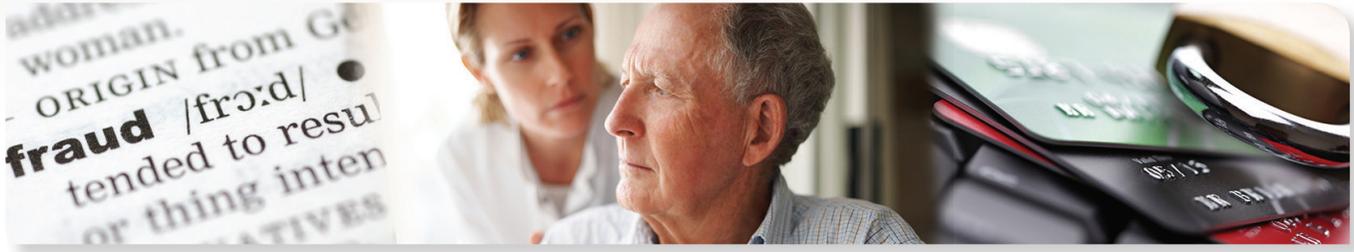
Or what about a situation in which you dislike or do not trust your son or daughter in law? If you leave your IRA outright to your child, his or her spouse may be able to talk them into liquidating it. However, if you name a trust as the IRA beneficiary, your child won't be able to liquidate the IRA—and suffer the potentially painful financial consequences. Similarly, if you fear that your son or daughter is not yet mature enough to handle the money in your IRA, but you hope one day they will be, an IRA trust can allow you to name them as beneficiaries but put restrictions on how they can utilize the money.

Finally, even though IRAs are protected from the claims of creditors in many states, when the IRA account owner dies and the assets go to an individual beneficiary, the IRA loses its protected status. By putting these assets into a subtrust created for an individual beneficiary under the terms of an IRA trust, the assets will continue to be protected. The result? The IRA assets can remain intact for the benefit of the beneficiary in the event a lawsuit is filed against the beneficiary, if a married beneficiary later divorces, or if a single beneficiary gets married and later divorces.

An IRA Trust is not for everyone. To determine whether you and your family would benefit from having an IRA trust as part of your overall plan, please contact us for an initial consultation.



# FINANCIAL ELDER ABUSE



It is estimated that five million seniors fall victim to financial abuse each year. Getting a more precise picture of the extent of the problem is difficult because many seniors are unaware that the financial abuse is taking place, while others are unwilling to report it out of embarrassment or fear for their safety.

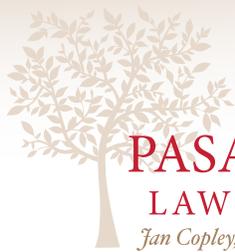
What is financial abuse (also known as material exploitation)? It is defined as the illegal or improper use of an elderly person's funds, property, or assets. Examples of this type of abuse include, but are not limited to:

- Cashing an elderly person's checks without authorization or permission
- Forging an older person's signature
- Misuse or theft of an older person's money or possessions
- Deceiving or coercing an older person into signing any document (such as a contract, will, title, etc.)
- The improper use of conservatorship or power of attorney

Maybe you suspect that an elderly family member or loved one is being subjected to some form of financial abuse but are not sure. Here are a few signs to look for:

- Sudden changes in bank account or banking practice, particularly unexplained withdrawal of large sums of money when the older person is accompanied by another individual
- Additional names being included on an elder's bank signature card
- Unauthorized withdrawal of the elder's funds using the elder's ATM card
- Sudden changes to a will, trust, power of attorney, or other financial document
- Disappearance of funds or valuable possessions that the elder person can't, or won't, explain
- The elder person is receiving substandard care or accumulating unpaid bills even though adequate financial resources are available
- Discovery of a forged signature for financial transactions or the titles of the elder person's possessions
- Sudden appearance of previously uninvolved relatives who claim to have rights to the elder person's affairs and possessions
- Sudden transfer of assets to a family member or someone outside the family that the elder person can't explain
- Provision of services to an elder person that do not seem to be necessary

To learn more about financial elder abuse, visit  
[www.preventelderabuse.org/elderabuse/fin\\_abuse.html](http://www.preventelderabuse.org/elderabuse/fin_abuse.html)



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## A PERSONAL NOTE FROM JAN

Welcome to the Pasadena Law Group's first newsletter about elder law issues! In the newsletter, we talk about some powerful tools to help you accomplish goals you may have to help pay for a grandchild's education or to preserve the benefits of your hard-earned retirement plan for your children.

You might wonder why we're sending you a newsletter about elder law when the Pasadena Law Group is an estate planning law firm. The reason is because elder law is an important subset of estate planning, and we consider ourselves to be a full-service estate planning organization! It is important to us to work with our clients as they get older to help them protect themselves and their assets, to give them self-determination upon their disability, and to make sure their wealth is distributed the way they want when they die.

Additionally, in some circumstances, we can help our clients who are faced with a long-term illness or disability from losing all their assets to cover the high cost of their care.

If you have any questions or concerns about the issues covered in this newsletter — or anything else about your estate plan — please give us a call!

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