SEVERNS & HOWARD FIRM NEWS:

Family, commitment, excellence, honesty and teamwork – these are the guiding principles of Severns & Howard. Our attorneys consider Elder Law to be a calling and are passionate about assisting those who face challenges with legal, financial and health care needs. With each case, we take the time to understand your situation and needs, providing personal, professional advice and guidance to develop comprehensive care plans for you and your loved ones. We focus on helping families work together without conflict to plan for both immediate and future needs.

Employee Spotlight:

Summer Intern Scott Howard, II

Scott is the son of partner Anna Howard and is currently doing a summer internship with Severns & Howard. This is Scott's third summer working for Severns & Howard by assisting us with out document file storage and organization. Scott is a recent graduate of Perry Meridian High School and will soon be heading off to the University of Kentucky in Lexington to study Computer Science Engineering.

THE USE OF TRUSTS IN SPECIAL NEEDS PLANNING

By Partner Anna M. Howard

Trusts play an important role in many lifetime plans. A trust can help to avoid probate, ensure privacy and ease of estate administration. But they are of particular benefit in dealing with the assets currently owned, or which might be inherited, by a person with special needs, who is, or may be receiving, government benefits. Before thinking about establishing a trust, is it important to understand what a trust is and how it can be used.

What is a Trust?

A trust is a document that permits assets to be set aside for one or more beneficiaries with a particular set of instructions for the use of those assets. Assets are titled in the name of the Trust and the designated Trustee manages those funds. Trust law permits broad latitude to the creator of the trust to specify how the assets will be used. A Trust can be created during one's lifetime or at death through a Will (a testamentary trust). Trusts can be revocable or irrevocable during one's lifetime. There are also different types of trust which can make designations or protect the assets of someone with special needs.

What Can a Special Needs Trust Do?

A Special Needs Trust can:

- Protect assets for a surviving spouse's long-term benefit;
- Provide management of funds for a special needs individual to be used as you direct;
- Protect assets of the special needs individual without disqualifying them from government benefits such as Medicaid and SSI

Who Can Serve As a Trustee?

Either a corporate trustee or an individual can be designated as a Trustee. Corporate trustees are often the best choice if there are substantial assets to manage and the corporate trustee's investment expertise can be used to keep the assets productive. Individuals are often chosen as Trustees where the assets are small enough to make a corporate trustee uneconomical. However, an individual trustee should maintain regular contact with legal counsel to comply with the trust management and taxation laws and the instructions in the trust instrument. Co-Trustee arrangements or a corporate trustee with a family-member advisor often provide the most suitable balance of technical expertise and personal interest to the beneficiary.

In Indiana, assets of disabled individuals can be managed through group pooled trust with an organization such as the ARC. These organizations work closely with the special needs individual and/or the special needs appointed agent to keep funds available for extra expenses, but also keep personal accounts below required limits for Medicaid and SSI.

Who needs a Special Needs Trust?

Three primary groups of people who benefit from a Special Needs Trust are:

1. A surviving spouse, to protect assets for the surviving spouse's long-term care.
2. A special needs individual whose family wants to provide funds for support and care without hindering the individual's eligibility for governmental benefits.
3. A special needs individual who has received a settlement or inheritance and is vulnerable to loss of Medicaid or SSI and/or exploitation of mismanagement of funds.

In the first category, a Testamentary Trust is an excellent tool for estate planning, which we often use in our practice. A Testamentary Special Needs Trust is designed to protect assets for the surviving spouse's long-term benefits under the management of a designated Trustee. The Trust is designed to permit the Trustee to withhold payments for the surviving spouse's care and preserve assets if the surviving spouse would otherwise qualify for Medicaid.

The second category, a 3rd Party Special Needs Trust, is a specific trust in which parents or family members of a special needs individual creates provisions to set aside funds which are managed at the discretion of a Trustee. This enables them to leave assets to the special needs individual without disqualifying them from government benefits such as Medicaid and SSI. The Trustee can use the funds as directed in the trust to provide for rehabilitation, entertainment, advocacy and other services that will enhance the individual's quality of life.

The last category, a 1st Party Special Needs Trust, is used for a special needs individual who has received a financial windfall either though a legal judgment, settlement, or inheritance and who receives, or may need to receive, public benefits. The receipt of these new funds can be a wonderful benefit, but it can leave the recipient vulnerable to the loss of Medicaid or Social Security benefits and/or exploitation or mismanagement of funds. This trust is created by the individual, the individual's parent, grand-parent or by a Court. "Making It Last" is a term our firm uses to describe this type of estate planning. The goal is to make the money last over the lifetime of the individual, but not render the individual ineligible for public benefits.

Things to remember about trusts

Trusts can be an excellent tool for estate planning, however, there are potential pitfalls. Be sure to carefully plan and update a trust with a qualified attorney, and understand the ramifications of the implementation of each type of trust.

For more information about creating a special needs trust please contact our office to set up a meeting with our attorneys.

Charitable Giving After Tax Reform - Part 2

By Partner Scott R. Severns

Last month, I outlined approaches to charitable giving that can still result in income tax savings for the donor, despite changes caused by the "Tax Cuts and Jobs Act" of 2017. For people over 70 ½, I described how you can direct the financial institution that administers your tax-deferred retirement account (IRA, 401-k, 403b) to write checks to your charities on your behalf. Done properly, you save the tax on the amounts that would otherwise have been taxed to you.

For those of us who are not yet 70 1/2 and wish to give to charitable organizations, but no longer qualify to itemize deductions, other approaches permit tax savings. "Bundling" the gifts you intend for the next few years into a single year makes this possible.

Let's say that a couple gives $12,000 to a church each year and another $3,000 to various other charities. They also have $4,000 in property taxes annually, and this year, they had some high out-of-pocket medical expenses that would give another $5,000 in itemizeable deduction. As of 2018, $19,000 in charitable contributions and $4,000 in property taxes would not be enough for a couple to itemize deductions; it takes more than $24,000 of itemizeable deductions for a couple to save taxes.

In this particular year, when our couple has extraordinarily high medical expenses, the additional $5,000 of itemizeable deduction means that they exceed the threshold and get to itemize. They save taxes, but only on the $4,000 by which they exceed the threshold.

Let's say they decide to pay ahead on their $12,000 annual church pledge for the next two years. In that case, they get tax savings this year on $28,000! In other words, by bundling their church pledge for the next two years with this year's deductions, they get much more tax savings than they would have if they had followed their usual pattern of annual contributions. If their tax rate is 22%, they saved $5,280 (.22x$24,000) in taxes by bundling 3 years of church pledge into one tax year.

They would save even more if they also bundled the $3,000 they typically send to other organizations into this single year. But they are not sure which charities they will want to help over the next two years. There is a way that they can save the taxes and still have flexibility to decide later which charities will get the money.

Using a donor-advised fund gives flexibility about which organizations to support and when to issue the payments, while still saving taxes. Our couple will give away $15,000 per year between their church and other charities. They have a stock account with $60,000 worth of stocks that they can afford to transfer to a donor-advised fund offered by their brokerage house. That's enough for 4 years of their charitable giving. By transferring the stocks to the donor-advised fund this year, they save tax on $60,000 this year. Then they direct their donor-advised fund to distribute the fund among their church and the charities in the coming years. They've given away the same amount of money that they would have otherwise given, they can change their minds about which charities to support and when to issues the checks, but they will still get tax savings of $13,200 (.22x$60,000) this year by establishing the donor advised fund.

Of course, this only works if the couple can afford to part with the $60,000 this year. They cannot change their minds later and take the money back from the fund to use for other purposes. But this couple is confident they can handle it. Looked at another way, after the tax savings, the $60,000 benefit for their church and charities only ends up costing them $46,800.

Donor-advised fund accounts are offered by several brokerage houses. Costs are usually very modest.

Finally, there are retained-income charitable gifting options, such as charitable annuities and charitable remainder trusts that can also save income taxes. We'll discuss those next time.

IN THE MONTH OF JULY:

"The Summer looks out from her brazen tower, Through the flashing bars of July."
- Francis Thompson, *A Corymbus for Autumn*

July is:

UV Safety Month

Eye Injury Prevention Month

Upcoming Events!

- July 29th Summer Celebration from 4 p.m. – 8 p.m. at Mustard Seed Gardens 77 Metsker Ln, Noblesville, IN 46062. Join The Shepherd's Center of Hamilton County for a fun, family friendly evening of food, games, raffle prizes, silent auction, music and more benefiting Shepherd's Center of Hamilton County! Admission: $25.00 for One Adult Ticket, $40.00 for Two Adult Tickets, $10.00 for One Child Ticket (age 6-20), Children 5 and under are free. The Shepherd's Center provides enrichment opportunities for adults 55 years of age and older and is an advocate for older adults by ministering to their spiritual, physical, and personal well-being. For Tickets please go to http://shepherdscenterofhamiltoncounty.org/events/summer-celebration/
- July 30th Community Health Network Touchpoint Services for Seniors. Seminar *Managing Money* from 3:00 p.m. – 4:00 p.m. at Community Hospital South 1402 E. County Line Road South, Indianapolis,

Indiana 46227 and *New to Medicare?* From 6:00 p.m. – 7:30 p.m. at Community Health Pavilion Washington 7910 E. Washington Street, Indianapolis, Indiana 46219. Managing Money will be presented by Regions Bank on better ways to manager your money. Take steps toward a financial future by learning how to track and decrease your daily spending and even increase your income. To register for the event please visit https://www.ecommunity.com/events/2018/managing-money-1. New to Medicare? What is Part A? Parts B, C, and D? What happens if I don't want Medicare? How do I sign up? Getting ready to retire and learning about your insurance options can be overwhelming. If you are getting ready to use Medicare for insurance, there is a lot to learn and many decisions to make. This session will give you the information you need to start planning and clear up confusion about how Medicare works. This session is led by SHIP, the State Health Insurance Assistance Program. To register for the event please visit https://www.ecommunity.com/events/2018/new-medicare-11

- August 25th A Day Away Caregiver Retreat presented by Joy's House from 9:00 a.m. – 12:00 p.m. Joy's House final 2018 Caregiver Retreat will be held at Copper Trace Senior Living Community. There is no charge, and you do not have to have a loved one attending Joy's House – this is our gift to all caregivers in the community! All attendees will enjoy snacks, massages, special exhibits, information, guest speakers, fellowship and more. In addition, Adult Day Services are available at both Joy's House locations (space is limited). If your loved one is not already in attendance at Joy's House, we will need to capture basic medical information for us to best care for your loved one at Joy's House during the retreat. If interested in attending please e-mail Candace Preseton at candace@joyshouse.org.
- August 28th Partner Anna M. Howard will be presenting from 5:00 p.m. – 6:00 p.m. at the Independent Adult Day Care 8555 Guion Road, Indianapolis 46268. Anna, joined by Kate Horrigan from Indiana Funeral Care, will be speaking on the topic of the importance of planning ahead.

More Knowledge for Your Noggin:

General Information Links:

Senior Centers in Indianapolis: http://www.seniorcitizensguide.com/indy/listings/seniorcenters.htm

American Heart Association: http://www.heart.org/HEARTORG/

Indiana Chapter of the Alzheimer's Association: http://www.alz.org/indiana/

Parkinson's Awareness Association of Central Indiana (PAACI) http://www.paaci.org/

Huntington's Disease Society of America (HDSA) http://indiana.hdsa.org/

Rock Steady Boxing https://www.rocksteadyboxing.org/

National Alliance for Mental Illness: https://sites.google.com/site/namiindianapolis/home

American Seniors Association https://americanseniors.org/

Medicare https://www.medicare.gov/

AARP http://www.aarp.org/

Retirement Life Matters http://www.retirewow.com/

National Institute on Aging https://www.nia.nih.gov/health

National Alliance for Caregiving www.caregiving.org

Indianapolis Oasis Lifelong Adventure: https://www.oasisnet.org/Indianapolis-IN

The Shephard's Center of Hamilton County: http://shepherdscenterofhamiltoncounty.org/contact/

Community Health Network Touchpoint Services for Seniors https://www.ecommunity.com/services/senior-services-touchpoint

Articles of Interest:

Medicare Extends Deadline for Relief for Part B Penalties

https://www.cms.gov/Medicare/Eligibility-and-Enrollment/Medicare-and-the-Marketplace/Downloads/SHIP_and_Navigators_ER_Fact_Sheet.pdf

https://www.elderlawanswers.com/beware-medicares-penalties-for-late-enrollment-15355

Joy's House A Day Away Caregiver Retreat

http://joyshouse.org/programs/caregiver-support/a-day-away/

Be sure to like and follow us on Facebook at https://www.facebook.com/SevernsAssociates/