

**FREE “SENIOR LEGAL GUIDE™” WORKSHOP**

Learn about the new estate tax laws and the new Medicare laws and these topics:

**Living Trusts:**

- Why you may need to revise your Revocable Trusts due to the new Federal Estate Tax laws
- Why Revocable Trusts still benefit persons who will have no Federal Estate Tax
- How Trusts may protect your beneficiaries from creditors and exploitation.

**Medicare:**

- New Medicare Part A deductibles
- New Medicare Part B premiums
- New Medigap policies
- New Medicare Part D premiums

**Medicaid Nursing Home Eligibility:**

- What you may own and remain eligible for Medicaid Nursing Home coverage
- The five year look-back rule and the “half-a-loaf” plan for sooner eligibility
  - The Community Spouse Resource Allowance (CSRA)
- How your spouse may still be eligible for nursing home coverage with assets exceeding \$109,560.00
  - Medicaid Assisted Living Assistance
  - Veterans and their widows Aid and Attendance Benefits

LOCATION	DATE AND TIME
Plantation Inn & Golf Resort 9301 West Fort Island Trail Crystal River, FL 34423	Thursday, March 10, 2011 2:00 p.m. – 4:30 p.m.
Quality Inn & Suites 5316 US Highway 19 New Port Richey, FL 34652	Thursday, March 24, 2011 2:00 p.m. – 4:30 p.m.
Silverthorn Country Club 4550 Golf Club Lane Brooksville, FL 34613	Thursday, March 31, 2011 2:00 p.m. – 4:30 p.m.



Gregory G. Gay, Esquire

**The Nature Coast Law  
Offices of Gregory G. Gay, P.A.**

Crystal River, Florida  
Spring Hill, Florida  
New Port Richey, Florida

Estate Planning, elder law, long-term care,  
Medicaid planning/trust and estate  
administration/title insurance and real estate closings

Workshops are conducted by Gregory G. Gay, Esquire  
Florida Bar Board Certified Elder Law and Wills, Trusts and Estates lawyer  
Certified Advanced Practitioner and Certified Elder Law Attorney, National Elder Law Foundation

**RSVP to Mr. Gay’s Legal Assistant,  
Darla at (800) 226-0512**

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**TEMPORARY EXTENSION OF  
TAX RELIEF**

**Past and Present Estate and Gift Tax Laws** There is a federal gift tax imposed on lifetime transfers of property and a federal estate tax is imposed on transfers of property at death. An exception is made when the lifetime or death transfer is made to a qualified charity. There is another transfer tax that is imposed when the gift or devise is to a person in a generation that is more than one generation younger than the person making the transfer. This is called the generation skipping transfer tax. In 2009, the first \$3.5 million was excluded from the estate and generation skipping tax and the first \$1 million was excluded from the gift tax. The estate and generation skipping transfer tax was repealed by the previous Congress for persons dying during 2010. The gift, estate and generation skipping taxes have now been reinstated for persons giving or devising property in 2010, 2011 or 2012. The exclusion amount has been increased to \$5 million. However, there is a special election that can retroactively be made to continue to exclude the estate of a person dying in 2010 from taxation. New federal legislation must be passed for the gifts or devises effective after 2012, or there will be a return to a \$1 million estate and gift tax exclusion..



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**Portability of Unused Exemption  
Between Spouses**

Under the new law, any applicable exclusion amount that remains unused as a result of the death of a spouse dying after December 31, 2010, can be applied to the estate tax owed on the subsequent transfer of property by the surviving spouse. If the surviving spouse remarries, the amount of the unused exclusion

that is available for use by the surviving spouse is limited to the lesser of \$5 million or the unused exclusion of the last deceased spouse. A surviving spouse may use the predeceased spousal carryover amount in addition to such surviving spouse’s own \$5 million exclusion for taxable transfers. A deceased spouse’s unused exclusion amount is available to a surviving spouse only if an election is made on a timely filed estate tax return (including extensions) of the predeceased spouse, regardless of whether the estate of the predeceased spouse otherwise is required to file an estate tax return.

**Basis in Property Received During  
Lifetime or at Death**

A person must also pay a federal income tax on the amount realized from the sale of the inherited property less the taxpayer’s basis in this property. Basis generally represents a taxpayer’s investment in property and the cost of capital improvements made to the property less any depreciation deductions taken with respect to the property before it is sold. When a person receives a gift of property during the lifetime of the person making the gift, the donee (person receiving the property) acquires the donor’s basis. This is called the carryover basis. “Carryover basis” means that the basis in the hands of the donee is the same as it was in the hands of the donor. The basis of property transferred by lifetime gift also is increased, but not above fair market value, by any gift tax paid by the donor. The basis of a lifetime gift, however, generally cannot exceed the property’s fair market value on the date of the gift. If the basis of property is greater than the fair market value of the property on the date of the gift, then, for purposes of determining loss, the basis is the property’s fair market value on the date of the gift.

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**Basis in Property Received From a Decedent Who Died in 2009**

Property passing from a decedent who died during 2009 took a “stepped-up” basis. The basis of property passing to a beneficiary from a decedent’s estate was the fair market value on the date of the decedent’s death. In the alternative, the personal representative (executor) of the estate of the person making the gift at death could elect an alternate valuation date that was the earlier of six months after the decedent’s death or the date the property is sold or distributed by the estate. This step up in basis generally eliminates the recognition of income on any appreciation of the property that occurred prior to the decedent’s death. If the value of property on the date of the decedent’s death was less than its adjusted basis, the property takes a stepped-down basis when it passes from a decedent’s estate.

**Basis in Property Received From a Decedent Who Dies During 2010**

The rules providing for a stepped-up basis in property acquired from a decedent were repealed for assets acquired from a person dying in 2010. However, the personal representative (executor) may increase the basis in assets owned by the decedent and acquired by the beneficiaries at death by increasing the basis of the assets transferred by up to a total of \$1.3 million. In addition, the basis of property transferred to a surviving spouse may be increased by an additional \$3 million. Thus, the basis of property transferred to a surviving spouse may be increased by up to \$4.3 million.

**Repeal of Modified Carryover Basis for Determining the Basis in Property Received from a Decedent who Dies after December 31, 2010**

The modified carryover basis rules that were in effect for determining basis in property passing from a decedent who dies during 2010 do not apply for purposes of determining basis in property received from a decedent who dies after December 31, 2010. Instead, the step-up in basis law in effect prior to 2010, will apply.

**Gift Tax Annual Exclusion**

Donors of lifetime gifts are provided an annual exclusion in 2010, 2011 and 2012 of \$13,000 on transfers of present interests in property to each donee during the taxable year. If the non-donor spouse consents to split the gift with the donor spouse, then the annual exclusion is \$26,000 per donee for 2010, 2011 and 2012.

**Transfers to a Surviving Spouse**

A 100-percent marital deduction generally is permitted for estate and gift tax purposes for the value of property transferred between spouses if the donee spouse is a

United States citizen. Transfers of “qualified terminable interest property” are eligible for the marital deduction. “Qualified terminable interest property” is property: (1) that passes from the decedent; (2) in which the surviving spouse has a “qualifying income interest for life”; and (3) to which an election applies. A “qualifying income interest for life” exists if: (1) the surviving spouse is entitled to all the income from the property (payable annually or at more frequent intervals) or has the right to use the property during the spouse’s life; and (2) no person has the power to appoint any part of the property to any person other than the surviving spouse.

**Election for Decedents Who Die During 2010**

If a person died in 2010, the Internal Revenue Code permits the personal representative to elect not to be subject to estate tax, and the basis of assets acquired from the decedent would be determined under the modified carryover basis rules. In the alternative, the executor may elect to have the 2011 laws apply.

**MEDICARE UPDATE**

A person who is 65 years of age and who will be entitled to Social Security or Railroad Retirement benefits is automatically enrolled in Medicare Part A and will be deemed to have enrolled in Medicare Part B. A person who is not receiving Social Security or Railroad Retirement benefits must enroll for Medicare Part A during the initial enrollment period.

A person aged 65 and older (or a person under age 65 who is disabled) who has not received credit from Social Security for 40 quarters of coverage may enroll in Medicare Part A, but he or she may have to pay a \$450 per month premium in 2011 if the individual has 29 or fewer quarters of Social Security credits. Eligible individuals with 30-39 quarters of Social Security credits must pay a \$248 per month premium for Part A coverage in 2011.

Medicare Part A will pay for inpatient hospital care that is medically necessary for treatment or diagnosis after the patient meets the initial first day deductible that is \$1,132 in 2011. Benefits cover 90 days of inpatient hospital care for each spell of illness. There is a \$283 per day deductible for the 61st through 90th day in the hospital during the same spell of illness in 2011. In addition, a patient is allowed a maximum of 60 lifetime reserve days with a \$556 per day deductible in 2011. Each year, there is an adjustment to the initial deductible, coinsurance amount and lifetime reserve daily amount. This adjustment is normally published in October of the year preceding the new calendar year in which the new deductible will apply.

**Maximum Coverage for Hospital Care (2011)**

Days in Hospital	How Much You Pay	How Much Medicare Pays
First 60 days	\$1,132 for first day	Balance

61-90 days	\$283/day	Balance
91-150 days	\$556/day	Balance
After 150 days	All Costs	Nothing

**Skilled Nursing Facility Care**

Medicare Part A will pay all the costs for a covered skilled nursing home stay for the first 20 days and all but \$141.50 per day for the next 80 days in 2011.

**Medicare Part B**

Most Medicare Beneficiaries will pay a \$96.50 Part B premium amount in 2011 if they have an income of \$85,000 or less (or \$170,000 for joint filers). New Part B beneficiaries will pay \$110.50 per month. Individuals with annual incomes greater than \$85,000 and less than \$107,000 and married couples with annual incomes greater than \$170,000 and less than \$214,000 in 2011 will pay a monthly premium of \$154.70 each. Individuals with annual incomes greater than \$107,000 and less than \$160,000 and married couples with annual incomes greater than \$214,000 and less than \$320,000 in 2011, will pay a monthly premium of \$221.00 each. Individuals with annual incomes greater than \$160,000 and less than \$214,000 and married couples with annual incomes greater than \$320,000 and \$428,000 in 2011 will pay a monthly premium of \$287.50 each. Individuals with annual incomes greater than \$214,000 and married couples with annual incomes greater than \$428,000 in 2011 will pay a monthly premium of \$353.60. The income test is determined from the gross income reported by the Medicare beneficiary on his or her income tax return filed 3 years ago.

**Medicare Part D**

The annual deductible for 2011 is the first \$310 of prescription drug expenses incurred during 2011 for drugs on the plan’s list of covered drugs or formulary. The enrolled Medicare beneficiary then pays a coinsurance amount equal to 25 percent of his or her prescription costs, for formulary drugs, in excess of the annual deductible up to the initial coverage limit in 2011 of \$2040. The Medicare beneficiary’s prescription drug plan sponsor is to pay the remaining 75 percent until total drug expenses paid for by the plan and the beneficiary reach \$2,840. The enrolled Medicare beneficiary then pays the next \$3,730.00, in prescription drug expenses in 2011 before receiving any additional financial assistance. This additional prescription drug expense to the Medicare beneficiary is referred to as the doughnut hole since the plan pays nothing toward this additional prescription drug expense. There is no additional prescription drug assistance until an enrolled Medicare beneficiary’s annual prescription drug expense for formulary drugs and monthly expenses exceeds \$4,550 in 2011 plus his or her monthly premiums. A person with total prescription drug expenses for formulary drugs exceeding

\$6,448 in a year then pays a co-payment of \$2.50 for each generic for each generic drug and \$6.30 for any other drug prescription, or 5 percent of the cost of the prescription drug, whichever is greater. The new Affordable Care Act also gives the beneficiary who reaches the donut hole in prescription expenses in 2011 a 50% reduction in the cost of brand name drugs and a 7% reduction in the cost of generic drugs. This reduction does not decrease the amount of the prescription cost applied toward the deductible.

The annual premium and the deductibles are expected to increase each year as the cost of this additional Medicare benefit increases. Prescription costs will be treated as incurred by the Medicare beneficiary only if they are paid by the eligible beneficiary or by another individual on behalf of the eligible beneficiary. If the eligible individual is reimbursed for such costs through insurance, a group health plan, or other third-party payment arrangement, the prescription cost may not count toward the beneficiary’s incurred share of cost of \$4,550.

**SOCIAL SECURITY UPDATE**

The percentage of Social Security tax that will be deducted from a workers pay in 2011 is 4.2 percent of earnings. The maximum amount on which this tax is imposed for the year 2011 remains at \$106,800. This is the same maximum amount of earnings as the year 2010. The percentage of Social Security tax and the maximum amount of earnings on which this tax is imposed may increase each year, but did not increase for 2011 because there was no increase in the cost of living. A Medicare tax is also deducted from a workers paycheck. Presently, this is an additional 1.45 percent of earnings. There is no maximum amount of earnings on which this tax is imposed.

The Senior Citizens Freedom to Work Act eliminated the Social Security retirement earnings test in and after the month in which a person reaches regular retirement age. However, the Senior Citizens Freedom to Work Act does not repeal the present maximum that can be earned without a reduction in Social Security benefits between ages 62 and 66. The maximum amount that a worker under 66 can earn without a reduction in Social Security benefits in the year 2011 remains at \$14,600. The maximum that can be earned without a reduction in Social Security benefits may be adjusted by Congress each year. For every \$2 earned over the limit, \$1 is withheld from Social Security benefits. However, during the calendar year in which a worker born in 1944 attains age 66, the amount that can be earned prior to his or her birth month without a reduction in Social Security benefits in the year 2011 is \$37,680. Thereafter, there is a \$1 reduction in Social Security benefits for every \$3 earned in excess of \$37,680 before attaining age 66. Only wages and net self-employment income count toward the Social Security earnings limit. Income from savings, investments, interest, pensions, annuities, capital gains or insurance will not affect a retired worker’s benefits. Failure to inform the Social Security Administration of any excess earnings by April 15th of the year following the excess earnings may result in the imposition of an additional penalty. A person can earn an unlimited amount of income without a penalty after attaining age 66.