

NYSUT Member Benefits Trust-endorsed Legal Service Plan PREVENTIVE LAW GUIDE



A newsletter designed to help guide you through the legality of reality

Issue 95
January 2015

Legal Service Plan -- Important Changes/Correction

Important Correction

NYSUT Member Benefits recently updated its endorsed Legal Service Plan materials for all current Plan participants. Unfortunately, an error was made in printing regarding the **Guaranteed Maximum Fees** schedule and **Percentage Savings** that can be found in the current Legal Service Plan brochure and the Certificates of Coverage.

We apologize for any confusion this may have caused.

The correct information is as follows:

- **Effective September 1, 2014,** representation will be provided at the Plan rate of \$225 per hour or 40 percent less than the attorney's standard hourly rate, whichever is lower.
- **Effective September 1, 2015,** the rate will be \$250 or 30 percent less than the attorney's standard hourly rate, whichever is lower.
- **Effective September 1, 2017,** the rate will be \$265 or 30 percent less than the attorney's standard hourly rate, whichever is lower.

All information currently printed in the brochures and Certificates of Coverage will be correct effective September 1, 2015 for all Voluntary, Group Access & Group Prepaid Plan Participants.

Important Changes

Effective September 1, 2014, current Legal Service Plan participants no longer need to purchase the Elder Law Rider to get an additional Legal Security Packet (Will, Health Care Proxy & Living Will) for a spouse or domestic partner.

The Power of Attorney document -- which used to be included in the Legal Service Packet -- will remain free to participants. However, spouses or domestic partners of plan participants and individuals covered under the Elder Law Rider will pay an additional charge directly to the plan provider Feldman, Kramer & Monaco P.C. for this service.

- **The Legal Security Packet without the Power of Attorney is available for \$50.**
- **The Legal Security Packet with the Power of Attorney is available for \$100.**

Please note that Legal Service Plan participants must still purchase the Elder Law Rider to cover parents, parents-in-law, grandparents, and grandparents-in-law, and/or if they need to do estate planning for themselves.

In regards to the Elder Law Rider, covered participants receive one Legal Security Packet with the purchase of the Rider (not to include the Power of Attorney); **the Power of Attorney document will be available for an additional charge of \$75** paid directly to Feldman, Kramer & Monaco P.C. ⚖️

Overcoming bankruptcy fears

By Jacqueline M. Kelly, Esq.

For most people, the mere thought of using bankruptcy as an option to alleviate financial distress is enough to make them cringe. While it's difficult to make the decision to declare bankruptcy, understanding the real purpose of it often helps people get past any guilt and shame they may feel in filing a case.

With very few exceptions, the bankruptcy clients that I have encountered in my practice all expressed strong feelings of shame and guilt at “stiffing their creditors” and “not meeting their financial obligations.”

I've always attempted to refocus their attention to what is most important to them.

Whether it's saving their home, providing for their children, holding on to the vehicle that gets them to and from work every day, or simply getting out from under the black cloud of debt that keeps them awake at night.

Bankruptcy laws are available to assist people in obtaining a fresh start. For people with legitimate financial hardships, these laws can serve as a lifeline and there should be no shame involved.

My clients are people that have hit a bump in the road, whether it's the loss of a job, illness or disability, loss of a spouse, or failure of a business.

While some hardships are permanent, others are not; however, in a world where so many of us live paycheck to paycheck, even a temporary financial setback can have devastating effects on a family.

All too often, people are desperate to make the collection calls stop – even resorting to using mortgage or rent money to pay the most persistent creditors and get the phone to stop ringing. They may deplete personal savings and retirement accounts and/or take on additional debt in the form of home equity loans or second mortgages – simply to pay creditors for debts that could most likely be discharged in bankruptcy.

Missing a mortgage payment to pay the minimum balance on a credit card is not a very good idea. And neither is taking on more debt to pay existing creditors.

As unappealing and scary as it may sound, what very may well be in their best interest is to consider bankruptcy. Doing

this may afford someone the ability to eliminate most debts or pay what he or she can over time.

Bankruptcy exists for a reason... and it's not to make people feel ashamed or guilty or defeated. It exists to help those who have hit a bump in the road and need to get back on track.

My final message is this: Do not simply dismiss bankruptcy as the “B” word. Do not fear it! And consult with an attorney to understand it and find out how it may be able to help. ⚖️



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Preventive Law Guide is not a substitute for individual legal advice from a lawyer. The information presented here is believed accurate, but laws vary between states and every legal situation is different. If you have any questions whether information presented here applies to you, contact a plan attorney. Don't guess when you can be sure. New York residents, call the NLO at 800-832-5182; all other residents, call 800-292-8063.

For information about this program or about contractual endorsement arrangements with providers of endorsed programs, please contact NYSUT Member Benefits at 800-626-8101 or visit memberbenefits.nysut.org. Agency fee payers to NYSUT are eligible to participate in NYSUT Member Benefits-endorsed programs.

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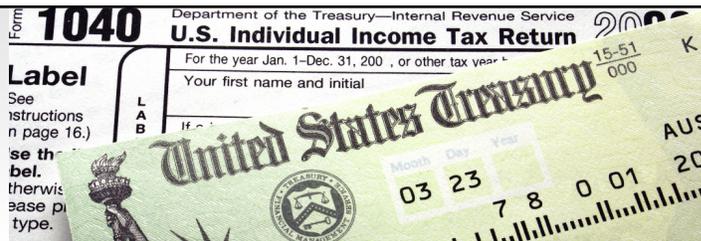
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The repercussions of NOT paying your taxes!

By Christopher M. Petillo, CPA, JD, CELA



Paying your taxes is a civic responsibility that most taxpayers take seriously. Most people are compliant and file their returns and remit payments by the required deadlines.

But what happens to those people who don't pay their taxes? **The IRS distinguishes between two types of tax avoidance:** 1) filing your tax returns but not paying and 2) not filing at all. It is likely better to file and not pay than not to file at all. Failure to file can be a misdemeanor under federal law and may be a felony under certain state laws (such as New York state).

If you file and don't pay (assuming you don't have the money on hand and are not intentionally avoiding collection), you will simply receive a bill. When dealing with the IRS, do not procrastinate as your issues will not get easier with time.

By ignoring notices, you may also unwittingly waive some rights under the Internal Revenue Code and your defense may be jeopardized by your inaction.

For those people who file but subsequently fail to pay, the IRS may show leniency. If you make a voluntary disclosure of past non-compliance, you can avoid criminal prosecution.

In certain situations, **the IRS may even offer a waiver of penalties**, such as if it is your first offense and you have voluntarily filed the delinquent return; or if there exists a "reasonable cause" to explain the situation (although interest charges will still apply since you had use of the money until the tax was finally paid).

If you are guilty of several years of non-compliance or a large balance is owed, you may wish to seek counsel to assist you in how to approach the IRS and state taxing authorities, if applicable.

If you simply need to set up a monthly payment to pay off the amount owed, the IRS offers *Form 9465, Installment Agreement Request* (additional documents may need to be completed if the balance due is greater than \$50,000). **The IRS can allow you to make monthly payments** (over 72 months if necessary) to pay off your debt.

The IRS has significant powers to collect unpaid taxes on behalf of the U.S. Treasury. As the boxer Joe Louis once quipped, "You can run, but you can't hide."

If your liability stems from a former spouse who left you with a tax bill unbeknownst to you, there is also potential relief under the Innocent Spouse Relief program. For example, let's say that Florence recently divorced her husband. She and her spouse filed joint tax returns, resulting in several joint tax liabilities for the tax bill owed.

Her ex-spouse was self-employed and underreported the earnings from his sole proprietorship. Florence is a wage earner, and taxes were withheld for her "portion" of the tax bill by her employer and paid each pay period, and were reported on her W-2. Therefore, the IRS may be willing to relieve Florence of the joint liability for her former spouse's portion of the tax due in certain circumstances.

Publication 971 relating to Innocent Spouse Relief is available on the IRS website at irs.gov. If you have any questions about this topic, please contact your Legal Service Plan provider's National Legal Office. ⚖️

Estate planning & estate taxes

By John T. Henderson, Esq.

Good news! There may be significant estate tax relief coming for many of us in New York state over the next five years. The current federal estate tax exclusion is

\$5,340,000. In addition, there are 19 states (including New York state) that have some form of an estate/death/gift tax. The good news is that New York state is raising its estate tax exclusion to the federal level over the next five years.

To determine if your estate owes an estate tax, the executor/administrator of your estate must locate and

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Estate planning...
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value all of your assets at the time of your death. If the total value of your assets exceeds the estate tax exclusion, your estate must pay a tax.

In April 2014, the New York State Legislature revised its estate tax laws in a mostly positive direction. Effective April 1, 2014, the NYS estate tax exclusion was raised to \$2,062,500. This amount will increase each April by \$1,062,500 until April 2017 when it will reach \$5,250,000.

Furthermore, beginning in April 2019, the NYS exclusion amount will equal the federal estate tax exclusion (which is currently \$5,340,000 and expected to be \$5,900,000 by that time).

If, at the time of your death, your estate exceeds the current NYS estate tax exclusion by more than 5%, your total estate is taxed by NYS at a rate as high as 16%.

In prior years, the NYS exclusion was \$1 million, and if your estate exceeded this amount, your estate was only taxed on the difference. This “cliff” can have a significant impact if your estate is valued at more than 105% of the exclusion amount.

In addition, under the federal rules, the surviving spouse may use any unused portion of the deceased spouse’s federal exclusion. However, NYS does not allow portability of the spouse’s unused exclusion.

Continued below



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The total value of your estate includes several assets that many people may not realize; this will help you to determine if your estate owes any estate tax. Most people understand that their taxable estate includes bank accounts, CDs, investments, real estate, and vehicles.

However, many people may NOT realize that the following items are also included in their taxable estate: the face value of their life insurance policies; 100% of their retirement accounts; 100% of the value of jointly held property owned with a non-spouse (including bank accounts); 50% of the value of property owned with their

spouse; the value of their interest in any business ventures; and personal items

There are a variety of estate planning tools and techniques that can help to reduce and/or minimize your estate tax obligations, including marital deductions, charitable deductions, mortgages or debt associated with properties, administrative expenses of the estate, life insurance trusts, marital credit trusts, and planned gifting during your lifetime.

If you have any questions about this topic, it’s a good idea to consider meeting with an estate planning attorney.

Welcome!

Welcome to the members of the **Greenburgh CSO Access** and **Chappaqua Office SA Access**. We look forward to providing legal assistance and services to these groups.