NEW FACES AT JEFFREY BURR

The law firm of JEFFREY BURR is pleased to welcome two new estate planning paralegals to the team, Erin Mullikin and Cindy Pittsenbarger.

Cindy

Cindy brings 32 years of legal experience to the firm. Cindy is a "native," born and raised in Las Vegas. Cindy will be handling estate planning in our Las Vegas office.

Erin

Erin is the newest estate planning paralegal for the Henderson office. She brings with her over nine years of experience in estate planning and corporate work.

contact us

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CLIENT FOCUS

Nevada Supreme Court Confirms Nevada's Strong Public Policy in SUPPORT OF ASSET PROTECTION TRUSTS

Nevada was one of the first states in the US to adopt what are known as 'Self-Settled Spendthrift Trust' or 'Domestic Asset Protection Trust' laws. These Nevada Asset Protection Trusts (what we also call Nevada On-Shore Trusts or "NOSTs") are different than a Revocable Living Trust or Family Trust that are primarily created for probate avoidance and incapacity planning. A Revocable Living Trust, contrary to what many people believe, does **not** provide asset protection for the settlors, or creators, of the Revocable Living Trust. This is because the NOST has several characteristics that the Revocable Living Trust does not.

Nevada is the leading jurisdiction for the set up of NOSTs. First, Nevada has the shortest creditor seasoning period of all the other states who have adopted Self-Settled Spendthrift Trust laws (an action must be brought by a creditor within 2 years after the transfer is made to the NOST or 6 months after the creditor discovers the transfer was made). Second, Nevada is the only 'no-exception creditor' state, which means that for a validly created and funded NOST, once the seasoning period expires, **no** creditor, no matter what type, can compel the distribution of NOST assets to pay a claim that the creditor has against the creator of the NOST.

The 'no-exception creditor' part of Nevada's Self Settled Spendthrift Trust law was tested recently in a case that went all the way to the Nevada Supreme Court; Klabacka v. Nelson ("Klabacka").

In Klabacka, a judgment was awarded to a creditor against the debtor individually, and the creditor asked the Court to break through the debtor's NOST to satisfy that judgment with NOST assets. The Nevada Supreme Court held that the NOST assets could **not** be reached by the creditor because Nevada law specifies that spendthrift trusts are to benefit the beneficiary alone – in this instance, the debtor. The Nevada Supreme Court further stated that Nevada has a strong public policy in protecting beneficiaries of a NOST against personal obligations reaching a NOST – as the "legislature enacted the statutory framework allowing self-settled spendthrift trusts to make Nevada an attractive place for wealthy individuals to invest their assets."

By upholding the NOST at question in the Klabacka case, the Nevada Supreme Court confirmed Nevada's strong public policy in support of Asset Protection Trusts. To speak with an attorney about how a NOST might benefit you and your loved ones, contact us at JEFFREY BURR LTD.

table of contents

summer 2019

Grandparents' {options for college costs

With the cost of college tuition rising, some grandparents are pitching in. Grandparents who want to help out have several options, but many come with limitations or possible pitfalls:

• **Cash gifts:** If your grandchild won't qualify for financial aid, a cash gift may be a good option. Under federal law, couples can give up to $30,000 per year before being subject to gift taxes. However, if your grandchild might qualify for financial aid, such a cash gift could limit their eligibility.

• **Payments to the school:** When tuition payments are made directly to the school, those payments aren't classified as a taxable gift and there's no annual limit. However, only payments for tuition are exempt, not payments for room, board, books or other fees. Before making a payment, ask the school if it will impact any school-directed financial aid.

• **529 plans:** Grandparents may contribute to a 529 college savings plan. Contributions grow tax-deferred, and withdrawals are tax-free at the federal level (and usually at the state level) as long as they're used for qualified education expenses.

Funds in a 529 plan can be transferred between siblings and cousins and there's no time limit in which the money needs to be used. However, be aware that any 529 plans you own may affect Medicaid eligibility.

Assets held in a grandparent's 529 account won't impact a student's financial aid eligibility. However, once a grandparent withdraws money to pay for college, it becomes reportable on the following year's aid application. That drives up the student's Expected Family Contribution (EFC) and reduces federal aid.

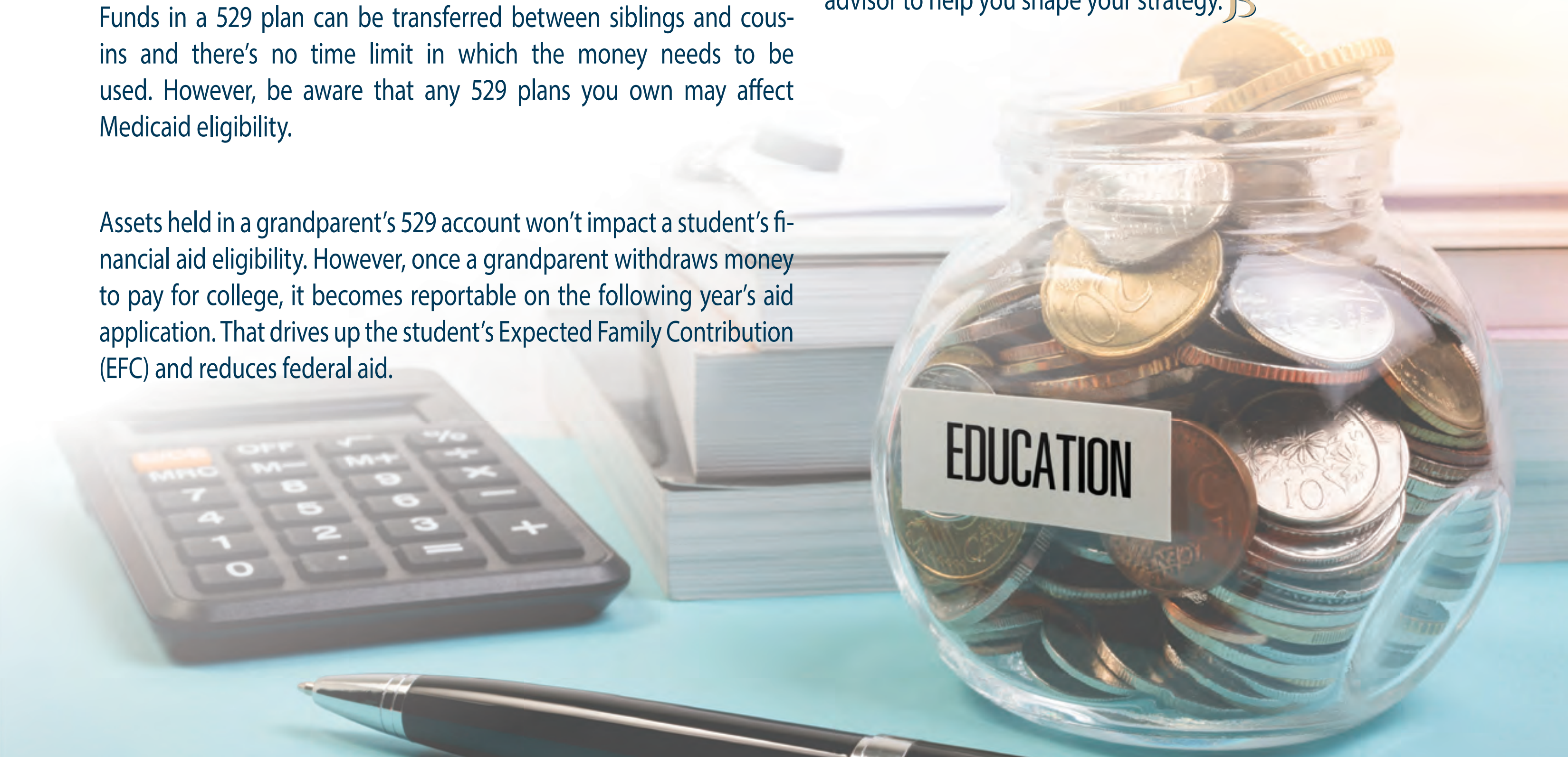
One workaround is not to withdraw the funds until your student's final year of school. Because they won't be applying for aid next year, your gift won't have an impact.

• **Coverdell accounts:** Grandparents have the option to fund a Coverdell Education Savings Account (ESA). Like a 529 plan, these funds grow tax-deferred and are tax-free if used to pay for qualified education expenses.

The upside to Coverdell accounts is that they provide the ability to self-direct investments. Plus, these accounts can be used to fund eligible expenses such as books, equipment and tutoring, as opposed to 529 plans, which can only be used to fund tuition.

You can only contribute $2,000 per beneficiary per year and only until they turn 18. Your ability to contribute also is phased out based on your income.

• **Drawing from IRAs:** If you're 59 and a half or older, you can withdraw money from IRAs to pay for a grandchild's education without paying the 10 percent penalty. For some, this strategy may be better than 529 and Coverdell accounts due to the lack of limits and restrictions. Funding college can be a complicated endeavor. Talk to an advisor to help you shape your strategy.



ESTATE PLANNING CRITICAL FOR NON-TRADITIONAL COUPLES

Generally speaking, estate planning laws were designed for the traditional nuclear family, a married couple with kids.

But according to the 2010 U.S. Census, such families are less than 50 percent of the total. Non-traditional families, including single parents, blended families and unwed partners, need to pay particular attention to their estate plans to avoid unwanted consequences.

If you die without a will, your assets will be distributed according to your state's default laws. If you're not married, these laws indicate that your assets are passed on to your next of kin, such as children, parents or siblings.

Consider wills, trusts, a durable power of attorney and healthcare proxies to designate whom you want to step in for you if you're incapacitated and who should receive property after your death. Take a look at how your assets are titled, as well as your beneficiary designations. These will also impact how your assets are distributed after your death.

Title property with care

Ensure that family real estate is titled appropriately, consistent with your wishes and instructions in your will. Titling issues are especially important if you are unmarried and want your partner to continue living in the property after you die.

Two titling options include tenants in common (TIC) and joint tenants with rights of survivorship (JTWROS). When a property is held as a TIC, each owner holds an interest. When one owner dies, that interest passes to an heir, per his or her estate plan. That means your partner could end up as a joint owner with your children or siblings. With JTWROS, on the other hand, property automatically transfers to the surviving owner.

Protect a partner and the next generation

For blended families, consider ways to protect your spouse's quality of life into retirement while still providing assets to your children after your spouse's death. Otherwise, all your assets could transfer to your spouse, and then ultimately to his or her children. Trusts are one option to give your spouse rights while still setting aside assets for the next generation.

Alternately, a couple may pool their resources into a joint trust. Any remaining assets could be distributed to all your children equally after you've both died.

Talk with an estate planning attorney about other planning strategies that can benefit unmarried couples and other non-traditional families. Arrangements can be made for retirement plans, estate taxes, wills, real estate and healthcare powers of attorney.

40 YEARS OF LEADERSHIP

This March, Jeffrey L. Burr was inducted into the Forty-Year Club with the Clark County Bar Association, after 40 years of service and dedication to Clark County's legal community.

Since his admittance into the Nevada State Bar in 1979, Jeff has spent his career guiding families towards the best protection for the assets they hold dear. From estate planning to asset protection to guardianships to probate and more, Jeff has been a resource for the community, helping families protect and distribute their legacy for years to come.

Jeff Burr has been recognized as one of the top tax and estate planning attorneys in Nevada. His personal client list contains many of the most prominent families in Southern Nevada. Under Jeff's leadership, the firm has received the highest and most prestigious rating of "AV" from Martindale-Hubbell.

Congratulations, Jeff, on a long and successful career! To many more!