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# Legal Matters®

## Your IRA can be a valuable tool for estate planning

IRAs are popular investment vehicles for retirement. But if you don't need all the assets in your IRA to support yourself after you retire, they can also be an excellent tool for estate planning.

Handled properly, an IRA can provide tax-sheltered growth for your heirs for many years to come. But you need to be careful, because it can be easy to make costly mistakes.

An IRA, or Individual Retirement Account, is a personal savings plan that allows you to set aside money for retirement. The advantage of an IRA is that you may be able to deduct some or all of your contributions from your taxes. Earnings in an IRA generally aren't taxed until they're distributed to you, at which point you pay income tax on the distributions. However, the assets in the IRA will have had a chance to grow through investment during this time without any capital gains or other taxes.



(This is true of a traditional IRA. There are also "Roth IRAs." With a Roth IRA, you don't get a tax deduction for your contributions, but you don't have to pay tax when the money is distributed.)

Once you reach age 70½, you must start taking distributions from a traditional IRA. You must take out at least a minimum

amount each year, which varies depending on your age and life expectancy.

But if you don't need all the money in your IRA to live on, you can take only the minimum amount, and leave the rest of the assets in the account to grow and eventually pass along to your heirs.

Here are three things to consider:

**Name beneficiaries.** Give some careful

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Hiring a caregiver directly means you can choose the person you want, but you'll also have to deal with payroll, tax, and liability issues.

## Should you hire a caregiver yourself, or use an agency?

Most seniors prefer to stay at home as long as possible rather than move to a nursing home. For many families, this means eventually hiring a caregiver to look after an aging relative. There are two main ways to hire someone – directly and through a home health agency.

The benefit of hiring a caregiver yourself is that you can select the person you like the best and who is the best fit for your family. In addition, hiring someone privately is usually cheaper than hiring through an agency.

On the other hand, if you hire a caregiver directly, you'll need to consider all the tax and liability issues. As an employer, you'll be responsible for filing payroll tax forms and verifying that the employee can legally work in the U.S. If you pay \$1,700 or more in wages to any one employee in a year, you'll need to withhold and pay Social Security and Medicare taxes. If you pay more than \$1,000 in wages in a year, you'll need to pay unemployment taxes.

In addition, the person you hire might not carry



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his or her own liability or workers' compensation insurance. If an accident occurs on the job, you could be responsible.

If you hire through a home health agency, the agency is the employer, so you don't need to worry about tax and liability issues. The agency takes care of screening and paying the employees, performing background checks, and providing insurance.

In addition, a licensed home care agency must provide ongoing supervision to its employees, helping them

deal with difficult family situations or changing needs. And the agency might also be able to provide back-up if a regular caregiver is not available.

The downside of using an agency is not having as much input into the selection of the caregiver. In addition, caregivers may change or alternate, causing a disruption in care and possible confusion.

If you want to find a home health care agency near you, you can visit U.S. Government's Eldercare Locator service at [www.eldercare.gov](http://www.eldercare.gov).

## Here's what happens to a will after a person dies

Many movies and television shows include a scene where a family gathers around a big table after a relative has died to listen to the reading of the will. While this makes for great drama, things don't usually happen this way in the real world. In fact, there is no requirement that a will be read out loud to anyone.

So what *does* happen with the will?

Once the will is located, it should be given to the estate's attorney. Instead of reading the will aloud, the estate's attorney sends copies to anyone who may have an interest in it. This includes:

- The executor or personal representative, who is in charge of applying for probate, managing the decedent's property, and making sure the instructions in the will are carried out.
- Anyone who is named as a beneficiary. If any



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minor children or incapacitated individuals are named, then their guardians should receive a copy of the will.

- In some states, anyone who would have inherited if there was no will is entitled to a copy of the will.
- Even if it isn't required by law, if there is the possibility of a legal challenge to the will, the attorney may want to send a copy to any legal heirs, close family relatives, or previous beneficiaries who aren't included in the

will, so that they have notice. This will limit the time frame for them to file a will contest.

- The estate's accountant may get a copy, and if the estate is taxable, then the IRS may get a copy as well.
- If the will funds a revocable trust, then the successor trustee of the trust is entitled to a copy.

Note that once a will is probated, it is available to the public and anyone can read it.

# 10 million Americans are now caring for aging parents

Nearly 10 million adults age 50 and over are now caring for an aging parent, according to a new study published by MetLife.

There has been a dramatic rise in the number of men and women providing parental care over the past decade and a half, the study notes. In 1994, only 9 percent of women and 3 percent of men in that age group were providing care to parents. By 2008, the percentage of female caregivers had more than tripled to 28 percent, while the figure for males had quintupled to 17 percent.

Daughters are more likely to provide help with personal activities such as dressing, eating and bathing, while sons are more likely to provide financial assistance, the study found.

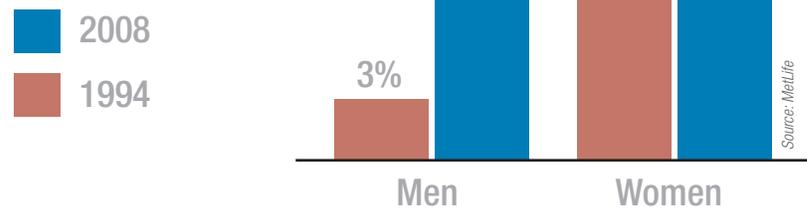
Americans who take time off from work to care for their parents are losing a great deal of money, according to MetLife. For the individual female care-

giver, the impact in terms of lost wages, pension and Social Security benefits averages \$324,044.

For male caregivers, the figure is \$283,716.

The study, "Double Jeopardy for Baby Boomers Caring for Their Parents," can be found at <http://www.caregiving.org/archives/1773>.

## Percentage of Adults Over 50 Who Are Providing Care for a Parent



## Your IRA can be a valuable tool for estate planning

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thought to the beneficiaries of your IRA. A spouse may be a logical choice for a beneficiary, but if you name your spouse, be sure that you name contingent beneficiaries as well. If you don't do so, then if you and your spouse die at the same time, or if your spouse dies and you're not able to name a new beneficiary afterward, then the IRA will go to your estate.

It's usually not a good idea to have your IRA go to your estate. For one thing, your estate will be subject to probate, which can result in costs and delays. Probate assets are also made public, so anyone can learn the details of your financial matters, which you might prefer to avoid. Further, having the IRA go to your estate can destroy a number of potential tax advantages.

You should know that if your spouse inherits an IRA, he or she can roll it over into his or her own IRA. When someone other than a spouse inherits an IRA, that person will need to start taking minimum distributions within a year after the IRA owner dies.

**'Stretch' your IRA.** If you don't need all the funds in your IRA for retirement, you might want to "stretch out" your IRA. To do this, when you reach

70½, take only the required minimum distributions, leaving more assets in your IRA. When you die, your beneficiary can also take only the minimum distributions and "stretch" these distributions out over his or her lifetime, giving the IRA assets many extra years in which to grow tax-deferred.

It makes sense to name a young beneficiary, because the younger the beneficiary, the smaller each annual distribution must be, so there will be more assets in the IRA that can accumulate through tax-deferred growth.

If your heir doesn't need all the funds in the IRA to live on, he or she can also name a second-generation beneficiary, and the tax savings can accumulate over many more years.

**Name a trust as the beneficiary.** In some cases, it may make sense to name a trust as your IRA beneficiary. This is particularly true if you have minor children, children with special needs, or a beneficiary who is not good at managing money.

While a trust can be a valuable idea, it's essential to consult with an attorney to make sure the trust is properly drafted, because a mistake in the way the trust is set up can destroy the tax advantages of an IRA "stretch-out."

### We welcome your referrals.

We value all our clients. And while we're a busy firm, we welcome all referrals. If you refer someone to us, we promise to answer their questions and provide them with first-rate, attentive service. And if you've already referred someone to our firm, thank you!

Many people use the terms and interchangeably, but the two have different meanings, and it can be very important to know the difference.

## The difference between Alzheimer's disease and dementia

Many people use the terms "Alzheimer's disease" and "dementia" interchangeably, but the two have different meanings, and it can be very important to know the difference.

Dementia is a general term for memory loss that is severe enough to interfere with daily life. The signs of dementia may include forgetfulness; difficulty making plans, thinking ahead, or using language; and a change in character traits, among other symptoms.

Alzheimer's disease is a partially hereditary disease that causes a loss of brain cells. The symptoms start out mild, but grow progressively worse over time. An early symptom of Alzheimer's is difficulty learning new information. The disease can then progress to more severe symptoms such as forgetting names and places, disorientation, and mood and behavior changes. Eventually, it can lead to the inability to talk, walk, or eat.

Alzheimer's disease accounts for 50 to 80 percent of dementia cases, according to the Alzheimer's Association, but there are many other causes of dementia, including vascular dementia, Lewy body dementia, frontotemporal dementia, and Wernicke-Korsakoff syndrome.

It's important to know what type of dementia a person has, because the treatments are different. Some causes of dementia are treatable, and the person's memory problems can be alleviated with proper medical care. With Alzheimer's disease, there is no cure, but there are medications that can treat the symptoms and slow the disease's progress.

Dementia is not a normal part of aging. If someone you love is exhibiting signs of dementia, he or she should get immediate medical attention to understand the underlying cause.

For more information on Alzheimer's disease from the Alzheimer's Association, go to: [www.alz.org](http://www.alz.org).

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