



Elder Counselor

A newsletter for professionals serving seniors and those who love them.

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ANNOUNCING THE ELET TRUST SCHOOL



Elder Law of East Tennessee will offer a Trust School for clients and referral sources this August. Date to be announced. In this workshop, Amelia will cover all the trust basics: defining a trust, types of trusts, rules, and dos and don'ts. Participants will come away empowered with valuable knowledge and confident that they can serve as good trustees. For more information or to RSVP, contact [Connie Taylor](#) at 865-951-2410.

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Hot Topic: Do Organ Donors Feel Pain?

Many people know little about organ donation. It can be a touchy topic because it forces us to think in detail about our own mortality and to make practical decisions about what will happen to our bodies in the event of sudden death. Furthermore, discussions of organ donation are full of such bluntly grisly terms as "braindead" or "beating-heart cadaver," and there is really no way of softening this language to make it more comfortable.

What many people don't realize when they start considering organ donation is that the likelihood of becoming an organ donor is relatively slim. People who die of natural causes are usually not able to donate because the organs must be living in order to be viable. The donor's heart must still be beating (hence the term "beating-heart cadaver") for his or her organs to remain alive long enough to be harvested and transplanted into another patient. This situation necessitates a distinction between different kinds of death - yet another uncomfortable idea, since it leads to questions about what *really* constitutes death and whether or not there may be any possibility, with the aid of modern medicine, of a "braindead" person recovering from that state and returning to life.

Lately there has also been growing concern about organ donation following the publication of some articles, like [this one](#) from the Wall Street Journal, which suggest that patients who are braindead might still be able to feel pain. Some studies indicate that braindead patients from whom organs are being harvested sometimes exhibit possible signs of pain such as increased blood pressure and heart rate. For this reason, many medical experts advocate for anesthetization of braindead patients from whom organs are being harvested. But this is not yet the standard practice in the medical community.

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UPCOMING EVENTS

June 19

Amedisys Social Workers' In-service

June 21, 6:00 pm

“Stocking Your Elder Care Toolbox”
Emeritus of Oak Ridge

June 26, 6:30 pm

“Stocking Your Elder Care Toolbox”
Emeritus Terrace of Morristown

June 28, 6:00 pm

“Elder Law Basics”
New York Life Insurance Company

July 7, 6:00 pm

“Elder Law Basics”
Lebanon Baptist Church

Aug. 2, 6:00 pm

“Stocking Your Elder Care Toolbox”
Wellington Place, Sevierville

Aug. 7, 12:00 pm

“Stocking Your Elder Care Toolbox”
ALPS Support Group, Morristown

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Crisis Situations

Here's the deal: if you want to be a donor, *it is still possible to donate organs safely and without fear of suffering*, but you need to make sure your legal documents carefully and accurately describe your wishes.

If you want to be an organ donor, talk to your health care provider and a legal professional about what donor registration means for your rights and your treatment after braindeath. If you do register in advance as a donor - for instance, by signing up on the back of your driver's license or checking the appropriate boxes on your Advance Care Plan - you may not be guaranteed to receive anesthetic before your organs are harvested.



Three important legal documents control what happens to you and who is authorized to make medical decisions for you if you become unable to make those decisions for yourself. These are the Health Care Power of Attorney, Living Will, and Advance Care Plan. By reviewing these documents, confirming that they agree with each other, and ensuring that a trusted Health Care Agent fully understands your wishes regarding organ donation, you can rest easy knowing that you will be treated exactly according to your wishes in the event that you cannot express those wishes yourself. By understanding the ins and outs of the donation process and tailoring your documents accordingly, you can still make a life-saving contribution while ensuring that your body is treated exactly how you want it to be treated.

For more information and resources about organ donation, visit our [Elder Law Insights](#) blog or give us a call at (865) 951-2410.

In The Know: Maximizing Social Security Benefits for Baby Boomers

As we all know and as statistics confirm, the American population is aging, people in general are living longer than past generations did, and in many cases women outlive men. For these reasons, it is important for people in their sixties to make the best choices in how they elect to claim their Social Security retirement benefits.

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ELDER LAW OF EAST TENNESSEE

Elder Law of East Tennessee uses a unique approach to Elder Law called Life Care Planning. Attorney Amelia Crotwell and Elder Care Coordinator Connie Taylor, LCSW, work as a team to address legal issues while designing a comprehensive long-term care plan that maximizes quality of life and independence for the older adult.

Caring and planning for the future can be burdensome and overwhelming, but Elder Law of East Tennessee can help in many ways. A consultation with Elder Law of East Tennessee is your first step toward the assurance that only a specialized Life Care Plan can provide.

Call 865-951-2410 or visit our [website](#) to get started today. Elder Law of East Tennessee is conveniently located at 428 E. Scott Avenue, Knoxville, TN 37917.

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For some people - particularly for those with diseases that make a relatively early death likely - election to start receiving Social Security retirement benefits as early as possible may be the best choice. However, for most people, starting to receive Social Security retirement benefits later can result in a large increase in the total amount of benefits received over the rest of their lives. What most of us don't realize is that married people have the option to receive Social Security benefits under their own work record, their spouse's work record, or in some circumstances, both their own and their spouse's work records. If those who are eligible to receive Social Security benefits fail to make careful and wise choices with an eye toward meeting long-term financial goals, they may miss out on opportunities to maximize their benefits.

For the next 17 years, an average of more than 10,000 baby boomers will turn 65 per month. This huge population of people needs to make decisions about when to start receiving their Social Security retirement benefits. Some have already elected to start receiving benefits as early as age 62. Attorney David A. Cechanowicz, JD, MSFS from Albuquerque, New Mexico, who delivered an eye-opening presentation entitled "Maximizing Social Security Income for Dual Income Boomers" at the 2012 NAELA Annual Conference in Seattle this April, compares the choices people in their 60s face to a three-legged stool. The legs are mortality, election, and taxation, and cutting off any leg will make the stool fall over.

Mortality

As mentioned above, the population as a whole is aging, and individuals are living longer than ever before. Many factors affect how long individuals will live, but key factors are related to lifestyle, including diet, exercise, stress, sleep, exposure to dangerous conditions, exposure to environmental health risks and unpredictable risks, and genetics. Some people now facing decisions about Social Security are already in terminal conditions or have substantial likelihood of not living many more years. For these people, getting benefits earlier may be a better decision than waiting to receive more benefits later. But this may not be the best decision for individuals who enjoy good health, whose exposure to predictable risks is low, and who have a family history of longevity.

Despite the fact that people are living longer, according to the SSA's Annual Statistical Supplement for 2011, 74% of Social Security recipients have elected to start receiving benefits early. This can be a huge mistake because the total early retirement benefit is less than the total full retirement benefit if you collect for more than about 15 years (depending on the monthly benefit). In other words, if you think you will likely collect benefits for 15 years or more after early retirement age, then you will be better off waiting and taking benefits at your full retirement age instead of taking them early. Only if you think you are not likely to collect for 15 years after early retirement age does taking the benefit early make a lot of sense.

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NEW SERVICE: [ELDER CARE MEDIATION](#)

Elder care mediation is a method of resolving disputes among caregivers for an older adult. Elder care mediators specialize in working with families and older adults who are in conflict over issues such as care decisions, living arrangements, use of financial resources, and inheritance.

At Elder Law of East Tennessee, Elder Law attorney Amelia Crotwell has undergone extensive training in mediation as required by the Tennessee Supreme Court. She has also accrued twelve years of experience handling elder care matters and has earned nationally and state recognized certifications in Elder Law. Visit the [mediation page](#) of our website or [contact us](#) to learn more about our mediation services.

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Election

Many people believe they have only three Social Security election options: to take benefits early at a decreased rate, to take full benefits at the [Full Retirement Age \(FRA\)](#), or to take benefits late at a larger benefit level. In reality, the array of election choices is much broader, particularly for dual-income households. Optimizing the Social Security retirement benefits that a dual-income family or former dual-income family can obtain depends on several factors, including each worker's work record, his or her spouse's work record, whether or not the worker and/or spouse continue working while receiving benefits, and timing of receiving benefits. Survivor's benefits may be based on either worker's work record or on both work records combined.

When a two-worker couple elects to start receiving Social Security benefits based on their own work records, there are four primary considerations for a couple:

Claim and Suspend. A worker who has attained full retirement age can claim the benefit but then suspend the benefit and collect Delayed Retirement Credits (DRCs). This allows the worker's spouse to claim and receive the "spousal benefit," which is one-half of the worker's benefit, based on the suspended worker's record.

Claim Now, Claim More Later. The spouse of a worker who claims, or claims and suspends as described in the preceding paragraph, claims the spousal benefit (one-half of the other worker spouse's benefit), then later claims higher personal benefit at their full retirement age or later increased by delayed retirement credits.

Do Over. A claimant can change their claim election within 12 months after claiming but must repay the benefits received. Taxes paid may be reclaimed from the IRS and state.

Stop-N-Go. An individual who has started receiving benefits can stop temporarily and later resume receiving benefits enhanced by delayed retirement credits based on a smaller amount.

Articles from Boston College's [Center for Retirement Research](#) and [Financial Security Project](#) go into great detail about this and suggest which scenarios will work best based on relative incomes of the spouses. Another tool for planning is available at [SocialSecurityTiming.com](#).

As should be evident, the maximum family benefit is not an individual calculation, nor even two individual calculations. It is a lifetime choice, and electing to receive early Social Security benefits based on your own work record is betting against you living a long life.

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Elder Counselor is a bi-monthly publication serving professionals in elder law, senior service providers, and caregivers and families of the elderly and disabled.

To subscribe to our e-newsletter, send an e-mail to info@elderlawetn.com with the subject "NEWSLETTER."

View other archived issues on our website at www.elderlawetn.com/newsletter.

To comply with the U.S. Treasury regulations, we must inform you that (i) any U.S. federal tax advice contained in this newsletter was not intended or written to be used, and cannot be used, by any person for the purpose of avoiding U.S. federal tax penalties that may be imposed on such person and (ii) each taxpayer should seek advice from their tax advisor based on the taxpayer's particular circumstances.

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Taxation

The way Social Security recipients blend their benefits with other income can make as much difference in net benefit as election because Social Security is a tax-preferred form of income. That said, for those recipients whose only source of retirement income will be Social Security, very likely all of their retirement income will be income-tax-free. People who make several hundred thousand dollars per year of earned or investment income may be less concerned about optimizing the tax treatment of their Social Security, but the middle income category of seniors can make a significant improvement in how their Social Security benefits are taxed by how they make their elections.

To examine the income tax effect of delayed receipt, compare the following two scenarios.

In **scenario #1**, a couple receives a blend of 42% Social Security benefits and 58% income from other income including IRA and 401(k) income. Their total income of \$72,000 is made up of \$30,000 Social Security and \$42,000 other income. Adjusted gross income from this scenario (the taxed portion of Social Security plus other income) comes out at \$40,050.

In **scenario #2**, the couple increases to 72% Social Security benefits (\$52,000), and decreases other income to 28% (\$20,000). Adjusted gross income (the taxed portion of Social Security plus other income) in this scenario is \$8,700 due to the greater share of Social Security benefits, which are only partially taxed.

The income tax for scenario #1 is \$5,560. The income tax for scenario #2 is \$780. Thus, scenario #2 provides a tax savings of \$4,780 per year. Over 20 years, such tax savings would multiply to \$95,600.

Conclusion

Baby boomers face important choices as they consider all the options of Social Security retirement benefits. Dual income couples have very substantial opportunities to increase their total benefits above the sum of what two single individuals can receive. Dual income couples can plan carefully for the most likely survivor and take optimum advantage of the spousal benefit available from Social Security in addition to the benefit available to each individual based on his or her own work record. Former spouses and widows and widowers in their 60s may have similar opportunities to receive additional spousal benefits based on the work record of their former or deceased spouses in addition to the benefits they are entitled to based on their own work records.

If you have any questions about Social Security benefits and how to plan for your financial future, please call our office at (865) 951-2410 or send an e-mail to info@elderlawetn.com.