

# Estate Planning Update – 06.09.21

Section 1.01      Join us on July 15 for an Estate Planning Webinar!

## Elder Planning ABCs for Higher Net Worth Families

Join Chambliss and High Ground for a webinar that will cover how to begin discussing elder planning before crisis. It can be a delicate conversation to have with your parents, loved ones, or clients. However, proper planning can lead to less frustration, confusion and heartache, and peace of mind. During this seminar, we will explain the importance of proper planning, including developments and opportunities provided by long-term care insurance and provide you with knowledge to aid your conversations.

### Event Details

Date: July 15, 2021

Time: 12:00 – 1:00 PM

**Registration is required for access to the virtual event on July 15, 2021.** Stay tuned for more details!

[Add to Calendar](#)

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## Section 1.02      Tennessee Further Solidifies Itself as a Top State for Trusts

By: [Shelton Swafford Chambers, CPA](#) & [Nick Nester](#)

For years, we have known that Tennessee has one of the most robust trust codes in the country. While this is surprisingly not one of the main topics at dinner tables nationwide, more than just Tennessee residents can share these incredible attributes. Due to new legislation Gov. Bill Lee signed into law on May 12, 2021, Tennessee has recently gotten even better!

For the readers that do not spend their weekends and vacations perusing the trust code, some of the best parts are: ease and flexibility of self-settled asset protection trusts, length of time trusts can exist, and state income tax provisions. And with the new legislation, it is even easier for preexisting trusts to be governed under Tennessee's Trust Code, even when the trust agreement provides for administration in a different state.

### Self-Settled Asset Protection Trusts

Tennessee law provides for self-settled asset protection trusts, meaning that someone can create a trust, be a beneficiary of that trust, and the assets inside of the trust are protected from creditors if done correctly. The two most common self-settled asset protection trusts are the Tennessee Investment Services Trusts (TIST) and the Tenancy by the Entirety Trusts (TBE Trusts).

A TIST is an irrevocable trust created by you (the grantor) for your benefit while protecting the assets from most of your future creditors. One of the key requirements for a self-settled asset protection trust is that the trustee must be a

“qualified trustee.” A qualified trustee is either a trust company qualified to do business in Tennessee or a Tennessee resident that is not considered subordinate to you. So, even if you do not live in Tennessee, as long as the trustee is a “qualified trustee,” you can create an asset protection trust and still be the beneficiary.

When initially funding a TIST, you must complete an affidavit that, among other things, discloses any known creditors and states that the transfer will not leave you insolvent. However, as part of last month’s new legislation, subsequent transfers will not require such affidavit. Additionally, as a result of the new legislation and effective July 1, 2021, if a TIST is properly funded, it will be protected from the claims of most of your creditors after the later of 18 months or six months after the creditor discovers or reasonably should have discovered the transfer (this 18 month period is reduced from two years and tied with Ohio for the shortest statute of limitations in the country). One way to start the time on when a creditor should have reasonably known about the transfer is to record the affidavit with the Register of Deeds.

A TBE Trust is similar in concept to a TIST, but it is a trust created by a married couple. Under Tennessee law, property held jointly by spouses entails a degree of creditor protection against the claims of one spouse. Usually, spouses who execute a traditional Joint Revocable Trust lose this creditor protection. However, if you and your spouse (the grantors) create a TBE Trust, if drafted and funded correctly, the assets in your TBE Trust have the same creditor protection allotted to property held jointly by spouses. The new legislation tightened up this trust by specifying that jointly held property transferred to a TBE Trust would maintain the “tenancy by the entirety” status, so the creditors of only one spouse cannot attempt to satisfy their claims with the assets in the TBE Trust.

**For more information on the timing, state income tax, and additional legislative changes regarding trusts, click [Read More](#).**

[Read More](#)

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## Estate Planning Resources



## How an Irrevocable Life Insurance Trust Can Be Used to Avoid or Reduce the Estate Tax

With the federal estate tax exemption possibly about to be lowered, it may be time to think about steps you can take to keep your estate from being taxed. An irrevocable life insurance trust allows you to pass on money to your heirs while avoiding both the federal estate tax, as well as any applicable state estate tax...

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## Can Life Insurance Affect Your Medicaid Eligibility?

When applying for Medicaid, many people often forget about life insurance. But depending on the type of life insurance and the value of the policy, it can count as an asset...

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## Also check out...

### [The Apartment — A Guide to Creating a Dementia-Friendly Home](#)

Dementia-related illnesses impact the mind and affect virtually every aspect of a person's life, including making many facets of daily living more difficult. The Alzheimer's Foundation of America created a [model studio residence](#) to show how practical design and technology can increase one's quality of life.

### [What Is the Generation-Skipping Transfer Tax?](#)

The estate tax gets all the press, but if you are leaving property to a grandchild, there is an additional tax you should know about. The [generation-skipping transfer tax](#) is a tax on property that is passed from a grandparent to a grandchild (or great-grandchild) in a will or trust.

### Court Case Illustrates the Danger of Using an Online Power of Attorney Form

A [recent court case](#) involving a power of attorney demonstrates the problem with using online estate planning forms instead of hiring an attorney who can make sure your documents are tailored to your needs.

## Just for Fun

### Action for Happiness June 2021 Calendar



Source: [actionforhappiness.org](https://actionforhappiness.org)