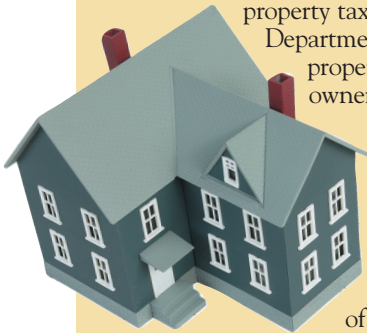


▲ **House Poor Seniors**

Although housing prices have leveled off and in many cases fallen, property taxes that rose from the late 1990s into the 2000s can be a financial burden for many senior citizens. For your elder clients facing a property tax “cash crunch,” the Minnesota Department of Revenue offers a senior property tax deferral program for homeowners who meet certain criteria.



Property taxes are capped at a portion of the full property tax amount. A lien is placed against the property which is paid when the house is sold. Seniors still apply for their annual property tax refund but instead of being issued by check, the refund is applied directly to the tax bill to

minimize the growth of the lien. Seniors continue to pay their property taxes to the counties which administer the program.

Generally, the homestead must be owned and occupied by a person age 65 or older, the household income for the calendar year preceding the application may not exceed \$60,000, the homestead must have been owned and occupied by homeowner for at least 15 years prior to the year of application, there can be no state or federal tax liens or judgment liens on the property, and there is a limitation on the amount of mortgage debt.

This program can be more cost-effective than a reverse mortgage as the upfront fees for such mortgages can run several thousand dollars. The citation is Minn. Stat. §290B.03.

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services, health care providers that are covered by the law are required to notify affected individuals when a breach of privacy occurs. This bolsters the law, which formerly required only that covered entities try to limit the negative effects of a privacy breach. Additionally, if the breach affects more than 500 people, the company must report the incident to the federal authorities and the media within 60 days of the discovery of the breach. The new law also requires conspicuous posting on a website or notice in print or broadcast for other privacy breaches.

The new measure also allows state attorneys general to bring civil actions in federal court to enforce privacy provisions and seek damages on behalf of state residents. This fills a gap in the pre-existing law, which did not permit private individual causes of action for privacy breaches. Private individuals whose privacy rights have been violated still may not pursue civil claims; however, lapses of confidentiality with respect to medical records may be pursued under common law and state statutory provisions, such as the Minnesota Health Records Act, Minn. Stat. §144.229, or the Patient’s Bill of Rights, Minn. Stat. §144.651.

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▲ **Withholding Tax Penalty**

If your client has been found to be the person responsible for the “withholding tax penalty,” they have a right to contribution from others in

the company that may also be responsible persons. It is not unusual for the IRS to single out individuals for this liability even though others are liable. The IRS can identify those other persons that are responsible by disclosing in writing not only the names of any other persons whom they believe are liable, but also whether the IRS has attempted to collect this penalty from those persons, the general nature of those collection activities, and the amount



collected. IRS’s determination will not be conclusive as to a contribution action, but the determination will be important nonetheless as leverage in prelitigation negotiations.

The extent of your client’s right of contribution is determined by the number of responsible persons (as defined by the Internal Revenue Code), not by the percentage of negligence. If the client has paid the full amount and there are four other responsible persons, the client can claim 80 percent of the amount paid as contribution.

An action enforcing a right to contribution can take place in federal court as a federal cause of action, or in state court if the state permits such claims. The choice of forum can depend on variations in state law, which sometimes make it difficult or impossible to press a successful suit in state court to force a contribution from other responsible persons, and the time it takes to get to trial.

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▲ **Medical Privacy**

The privacy provisions of a federal law governing health care providers have been strengthened by a portion of the American Recovery & Reinvestment Act of 2009. The measure includes changes to the Health Insurance Portability and Accountability Act



(HIPAA), 42 U.S.C. §1320D *et seq.*, pertaining to privacy and security requirements. The most significant changes involve requirements for notification of breach of privacy and allowance of some private civil actions.

Under the new provisions, which still need to be fleshed out by regulations to be issued by the Department of Health and Human Ser-

Have a bit of sage advice for a newcomer to your area of practice? Send us your “tips & traps”! Your colleagues will be grateful. Email suggestions, cautions, and tales of woe to bb@mnbar.org