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'Assisted living' is growing fast, but care doesn't always keep up

After suffering a traumatic brain injury in a car crash, Earl Scherrer lapsed into a coma. He wasn't expected to live, but his wife Lydia refused to disconnect his life support. Eventually he revived and even learned to speak again.

Lydia placed Earl in an assisted living facility in Phoenix that promised 24-hour care. A month later, she received a call that her husband had been vomiting.

She rushed over to the facility and brought Earl home. Soon afterward he died in her arms.

An autopsy revealed a number of foreign objects – plastic bags, catsup packets, candy wrappers and paper towels – in his stomach and small intestine. A medical examiner determined that the objects significantly contributed to his death.

Lydia sued the facility, and in March of this year a jury awarded her a substantial verdict, finding that the facility had been careless in taking care of Earl.

It's a tragic story, but unfortunately not the only one of its kind. The number of injuries and deaths blamed on assisted living facilities has increased significantly in recent years.

In part, this is due to the popularity of these facilities. Currently there are about 38,000 in the U.S., up from only 28,000 in 1998. It's estimated that there are now one million people being cared for in them.

The rapid growth has made it difficult for these institutions to find trained and qualified employees, and sometimes they take shortcuts and hire people who have inadequate training.

Another problem is a lack of regulation. Many people think assisted living facilities are carefully regulated in the same way that nursing homes are, but that's rarely the case. Most states have strict rules for medical-care facilities such as nursing homes, but the rules for assisted living are much more lax. Some states don't even have minimal standards.

Assisted living facilities often have very few

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Some assisted living facilities take shortcuts and hire employees without proper training.

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Most landlords make mistakes on their income tax

A quarter of all landlords who made mistakes paid too much tax and should have had a lower tax bill.

A majority – some 53% – of individual landlords in the U.S. make mistakes on their income tax when it comes to reporting rental income and expenses, according to a study by the U.S. Government Accountability Office.

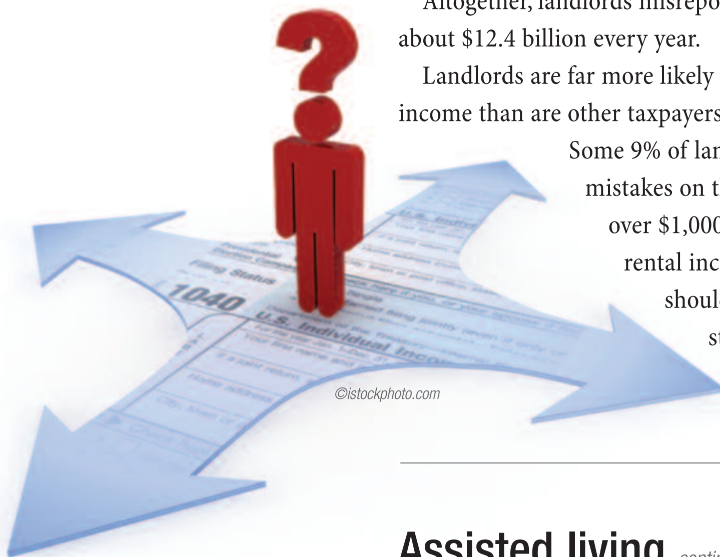
That means that out of about 8.9 million individual landlords in the country, nearly 5 million aren't paying the correct tax.

And of those 5 million, fully a quarter paid *too much* tax and should have had a lower tax bill, the government says.

The agency's figures are based on a comprehensive review of landlords' returns that have recently been audited.

Altogether, landlords misreport their income by about $12.4 billion every year.

Landlords are far more likely to misreport their income than are other taxpayers, the report says. Some 9% of landlords who make mistakes on their taxes report over $1,000 more in taxable rental income than they should, according to the study. By contrast, 51% of such landlords underreport their income by more than $1,000, and 6% underreport their income by more than $10,000.



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The most common type of error – by far – was in reporting rental expenses. The second most common error was misreporting the amount of rent received. Other common errors were reporting rental income on the wrong part of the return and misreporting rental-related losses.

As for rental expenses, the government found that about 20% of landlords who made a mistake in this area could have deducted more expenses than they did, and should have had a larger deduction.

Other mistakes include deducting unsubstantiated expenses, improperly deducting personal expenses as rental expenses, miscalculating depreciation, and fully deducting expenses that should have been depreciated.

About 166,000 landlords improperly included the value of the land as part of the depreciable basis in their properties.

As for misreporting the amount of rent received, landlords often make mistakes in how they handle expenses paid by tenants and unreturned security deposits.

Assisted living

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nurses on staff, which makes it difficult for them to make proper judgment calls about when residents need additional care. There have been cases where residents have suffered infected bedsores or become disoriented and wandered away.

One problem is that assisted living institutions have a financial incentive to keep patients for as long as possible. So a facility might not encourage residents to move to a nursing home even though it no longer has the ability to provide the type of care they need.

Of course, many assisted living centers are excellent and a great help to elderly residents. But you should always exercise caution and common sense in working with them, and make sure you or your loved ones are getting the level of care you deserve.

Watch out for 'business compliance' scams

If you own or manage a business, be aware that a number of companies have been receiving official-looking letters offering to file corporate minutes or other documents with the government for a fee. Some of these are scams.

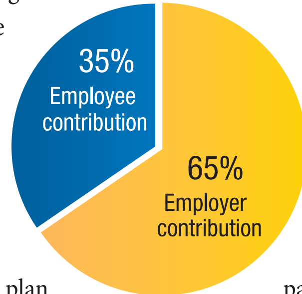
In Massachusetts, for instance, many businesses have received letters from something called "Compliance Services" offering to file corporate minutes statements with the state and asking for payment of a $125 "annual fee." The trick? There is no requirement to file corporate minutes in Massachusetts. And the $125 fee is confusing because it's the exact same amount as the fee for filing an annual report.

Before you respond to such a letter, make sure you know what the actual reporting requirements are and whether you're being taken advantage of.

It's easier for laid-off workers to get health insurance

Laid-off workers will have to pay less to maintain their health insurance as a result of changes enacted by Congress.

The changes affect a federal law known as COBRA, which says that fired or laid-off employees who had been eligible for health insurance through their employer have a right to continue receiving that insurance for up to 18 months. Normally, the employees have to pay their full share of the premiums – with no employer subsidy – but even so, this is usually much cheaper than buying health insurance individually and not as part of a group plan.



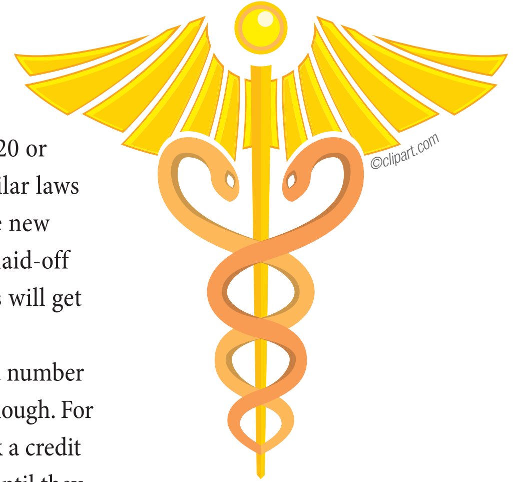
However, under the new changes from Congress, employees who are fired or laid off between September 1, 2008 and December 31, 2009 get a break. They only have to pay 35% of the cost of the insurance.

The employer must pay the remaining 65% – although the employer can then be reimbursed for this amount by taking it as a credit against federal payroll taxes.

COBRA only applies to companies with 20 or more employees, but many states have similar laws that apply to smaller companies. Under the new rules, if a state has such a law, then laid-off employees at smaller companies will get the same break.

The new rules could pose a number of problems for employers, though. For instance, employers can't seek a credit under the federal payroll tax until they are certain that the former employee has paid his or her 35% share to the insurance company. However, there's no legal requirement that either the former employee or the insurance company notify the employer when the payment is made.

Also, at some small companies, a 65% share of health insurance could exceed the company's payroll taxes, which means the company can't be fully reimbursed by taking a tax credit.



Who should be your retirement plan beneficiary?

Picking a retirement plan beneficiary is a key step in estate planning. Every year we hear about people who lost out on enormous tax savings by picking the wrong beneficiary.

So how do you decide whom to pick?

Most married people will choose their spouse. This is a usually good idea because the spouse can take distributions from the plan if he or she needs the money. The spouse can also roll the account over into his or her own retirement plan.

But what if you're unmarried, or your spouse has passed away, or you are choosing a contingent beneficiary in case your spouse passes away before you do?

The ideal beneficiary is a young person. That's because, if certain rules are followed, the young person can establish an "inherited IRA" and spread withdrawals from the account over his or her life expectancy.

Since a young person will typically have a longer life expectancy, he or she can stretch the withdrawals out over many years or decades, allowing the assets in the account to grow tax-deferred the entire time. This can result in an enormous tax benefit.

An older person can also be a good choice, but since their life expectancy is not as long, they will have to make larger withdrawals from the account and the tax savings will not be as great.

It's generally a bad idea to name your estate as the beneficiary, because typically all the money will have to be withdrawn (and income tax paid on it) within five years, destroying the chance for a longer "stretchout" and more savings.

It's also generally a bad idea to leave your retirement plan to a trust, unless it's a very particular kind of trust set up just for this purpose. Otherwise, all the money will probably have to be withdrawn within five years.

It can be a good idea to make charitable bequests out of a retirement plan, since you are giving the charity assets that would be subject to income tax if you left them to anyone else.

As you can see, there are many complexities to choosing a beneficiary, and the choice should generally be made in conjunction with a comprehensive estate plan.

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Is your ex-spouse doing everything he or she agreed to?

It would be nice if you could always trust your ex-spouse to do everything he or she is supposed to do. Unfortunately, the reality is ex-spouses often don't live up to all their obligations resulting from a divorce. So it's wise, if possible, to verify that your ex is living up to his or her agreements.

For instance: If your ex is supposed to maintain health insurance for your children, is this happening? If your ex is supposed to maintain a life insurance policy for your benefit, is it in place?

A recent case from the Oregon Supreme Court shows what can happen if you don't check.

The husband in that case was supposed to maintain a $100,000 life insurance policy for his ex-wife's benefit. He had a policy all right – but he named his new girlfriend as the beneficiary instead of his ex.

When the husband died, the ex-wife went to court. She argued that it was unfair for the new girlfriend to get the money when it was supposed to go to her instead.

But the court said the key question was whether the girlfriend *knew* the ex-wife was supposed to get the money. If she did, then she was consciously cheating the ex-wife and she shouldn't get to keep the proceeds. But if she didn't know, then the money should go to her. The husband might have cheated his ex, but the girlfriend was an innocent bystander and she shouldn't be punished for what the husband did wrong.

In this case, the court found that the girlfriend didn't know about the requirement in the divorce agreement, so she could keep the $100,000.

The moral of the story is that it's wise to make sure your ex is living up to his or her obligations…*before* something goes wrong.

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