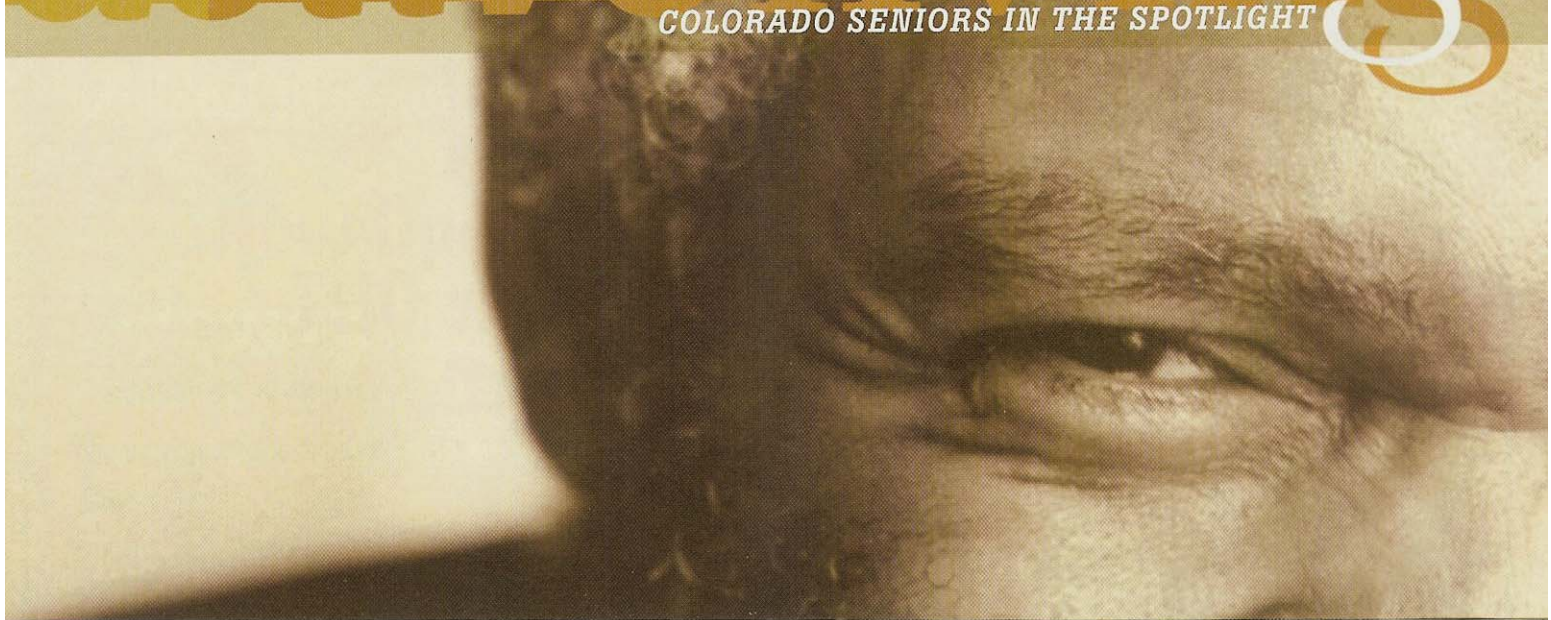


# active living

COLORADO SENIORS IN THE SPOTLIGHT



Given a choice of estate planning, watching paint dry or having a root canal, many people would put estate planning last on the list.

As our increasingly achy joints, lowered partying tolerance and graying hair attest, we don't have the carefree invincibility of youth to fall back on anymore.

If you don't have a will, now is the time to write one. If you've already done estate planning but haven't reviewed your will within the last three years, now is the time to make sure it still reflects your wishes and current law. Steps include:

**1. Create/update a will that takes into account changing times and legislation.**

This may sound ho-hum, but it isn't. For example, significant estate tax law changes have increased the value of assets that could be passed to others tax-free from just under \$1 million per person to an unlimited amount in 2010.

Wills frequently dictate that the maximum exempt amount – no specific dollar total – goes into a family trust, with income only going to the surviving spouse for life, and principal to the children upon the death of the second spouse.

The idea was to fund the family trust, with the balance going to the surviving spouse without restriction, either directly or into a marital trust controlled by the surviving spouse. Because the exempt amount has increased so drastically, the wording of these wills can cause all decedent assets to go into the family trust, leaving nothing but the income generated by it for the surviving spouse.

## Estate Planning now staves off heartache later

by Joel D. Russman, Attorney at Law

**2. Address asset allocation and assistance.**

Estate planning's primary goal is to set forth who will receive your assets; a secondary goal is tax avoidance. Estate planning can even result in avoiding capital gains taxes on certain assets that have appreciated during the person's life. In concert with qualified estate planning advisors, decide how to address these goals.

**3. Decide how to handle incapacitation.**

Address illnesses or injuries that leave you alive, but with reduced capacity. Living wills, financial and medical powers of attorney will allow you to authorize somebody else to act on your behalf when you can't, instead of requiring loved ones to convince a judge to appoint a guardian or conservator.

**4. Learn about the reality of probate.** Stories of awful probate are nothing but urban legend. In Colorado, most estates are probated administratively by informal probate. The cost is almost always far less than creating a living trust, and the process usually takes less than a year. Several documents are initially filed with the court, a personal representative (P.R.) is appointed with the power to act on behalf of the estate, several more documents are filed with the court along the way, and a final paper is filed with the court stating that the work of the P.R. is done. The P.R. is fully empowered to act without court intervention. And, the process eliminates claims of potential creditors forever.

*Joel D. Russman is an attorney specializing in estate planning, business law and real estate law. He may be reached at 303-894-0242; jdr@joelrussman.com.*