

# TEAMSTERS LEGAL LINE

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## THE THREE-YEAR GIFTING RULE

If you have elderly parents who face the prospect of nursing-home care, they may have thought that any gift made within 36 months of application for nursing-home assistance must be repaid or they would be disqualified for assistance. This is not the law. Gifts may be made right up to the month they apply for assistance, but such gifts must be no more than a certain amount and must be documented. A gift-tax return may also need to be filed

Assume your parents are in good health and want to deed you the family cabin. Should you just accept a deed from them? Without knowing more, there could be serious income tax, estate and inheritance tax, and future nursing-home assistance problems that were never intended. Just changing the type of deed transfer could save tens of thousands of dollars in future taxes and expenses.

Can your parents transfer an interest in their home to their children and still live there and homestead the property? Yes. There are always strings attached to transfers where you keep certain rights, but whether or not those strings are important in your parents' individual situation, only they can decide.

If your parent becomes incapacitated in the future, is there a way to arrange matters now so there is no need for a guardianship or conservatorship? Yes. A Power of Attorney or various transfers can prevent future problems and allow for a smooth transfer of responsibility to make ongoing future decisions--even future gifting decisions.

Gifting, estate planning and elder-care issues are often complex and subject to new regulations. The current state budget crisis is going to present new challenges to older persons who want to make sure that some of their life savings end up with their family. The time for an older person to plan is now, before an accident or illness removes the possibility for thoughtful, effective planning. Make sure, however, you check with an attorney with experience in elder-law issues before you make any major changes.

If you need information about elder law issues, your Union provides you with a no-cost, no-obligation opportunity to talk with an experienced attorney.