

Local Nonprofit Receives Congressional Support for Affordable Guardianship for Disabled and Seniors

Special Needs Tax Credit Alliance Petitions for Tax Refund for Legal Expenses
Congressman Robert Wexler to Sponsor Legislation

May 26, 2009 Delray Beach, FL. Karen Greenberg and Jaret Vogel, directors of Prosperity Life Planning (PLP), a special needs educational nonprofit organization, have created a new corporation, the Special Needs Tax Credit Alliance (SNTCA), whose mission is to build national support for Congress to enable a \$5,000 refundable tax credit, to reimburse parents of adults with disabilities and seniors with dementia for the legal expenses of guardianship for their loved ones. The legal work for this mission was completed pro bono by the international law firm of Proskauer, Rose LLP. An IRS filing for 501(c)(4) status (Social Welfare Organization) will be made in the second half of 2009.

In May, 2009, the group received word from Congressman Robert Wexler (D- Boca Raton) that he will sponsor legislation for a Special Needs Tax Credit, to enable families to receive the tax refund for guardianship and/ or a special needs trust. The couple met with the Congressman's staff in September, 2008, in Washington DC, to discuss their project. This legislation will take several years of work and consensus building before being brought to the floor for consideration.

In January of this year, Greenberg and Vogel met with Elaine Bucher, a Trust and Estate Planning Attorney with Proskauer, Rose LLP, at her Boca Raton office. Ms. Bucher was impressed with the concept of a tax refund for guardianship, and contacted their New York office to consider pro bono services to create the new business specifically to lobby for this purpose. Two days later, Vogel received news they were approved.

The Special Needs Tax Credit Alliance will enlist the cooperation of national parent, disability, senior and guardianship advocacies, as well as attorneys and bar associations who currently provide these legal services. SNTCA is completing final state registrations to allow donations to their cause, and are filing for 501 (c)(4) status as a Social Welfare Organization. Donations will not be tax deductible for the donor but will be tax exempt for the companies' purpose.

Jaret Vogel, Director of SNTCA states "Since the time of our earliest colonists, Americans have sought to have a voice in their affairs. Our nation was borne of this drive, and our colonists fought to have a voice in their government. In the 1880's, freed slaves were given the right to vote by the Reconstructionist Acts, the 14th and 15th Amendments to the Constitution. Following the Suffragette Movement, women were given the right to vote in the 1920's.

The Special Needs Tax Credit Amendment will enable family members to speak for their loved ones who cannot speak for themselves, currently a disenfranchised population. We see this situation as a violation of the First and Fourteenth Amendments, which guarantee freedom of speech and equal treatment under the law. How can these people have participation if the family cannot afford the extraordinary expenses of guardianship, expenses "typical" families are not burdened with?"

“Having met numerous parents in our counseling of special needs families, we’ve seen their great surprise to learn that when their child turns 18, the parents are no longer considered the legal guardian. They are then shocked to learn it may cost \$5,000. to retain guardianship. Many families cannot afford this legal expense. The child is then left in a ‘Catch-22’ situation: they do not have the competence to speak for themselves in legal, health care and financial matters, yet the parents cannot afford the legal expense to retain guardianship. The Special Needs Tax Credit Amendment addresses these issues, and provides a sensible and affordable method for these parents to protect their loved ones’ interests.”

Guardianship involves a court process involving several professionals. The parents retain an attorney to represent their interest: to retain guardianship over their child. The court then appoints an attorney to represent the child’s interests. A medical doctor and a social worker will be involved, to attest to the medical and social abilities and disabilities of the young adult involved.

Professional fees, court costs and filing fees bring the approximate cost to \$5,000 for full guardianship. A number of families may have two or more children with disabilities, thus further straining the family budget. Many of these families have had extraordinary expenses over the course of their child’s life for therapies, equipment, specialized recreation, specialized diets, etc, that “typical” children do not require.

A “refundable tax credit” is a dollar-for-dollar reduction in the amount of taxes due. To the extent taxes are paid by a parent, a receipt for legal services would allow a tax refund of their expenses. To the extent that the cost exceeds the amount of federal income tax paid, the government would provide the additional tax refund, much like the child tax credit currently employs.

These children may also not be able to maintain gainful or full employment, hence many parents are faced with the prospect of not only funding their own retirement, but the ongoing support and lifelong expenses of their child as well. As a secondary mission, the Special Needs Tax Credit Amendment would include the cost of creating an “Irrevocable Special Needs Trust,” which is used as an account for funds which will provide for care and services not provided by Medicaid, Supplemental Security Income, and other needs-based public benefits programs. The resources developed in the Special Needs Trust may allow a better quality of life than the minimum level of supports the government might provide.

Prosperity Life Planning has educated thousands of parents through free workshops and consultations, initially in New York and now in Delray Beach. The 501(c)(3) was founded in 1996 by Karen F. Greenberg, MBA, CFP® practitioner, and mother of an adult child with Autism. Their website is located at www.prosperitylifeplanning.org. A new website, www.specialneedstaxcredit.com is under construction.