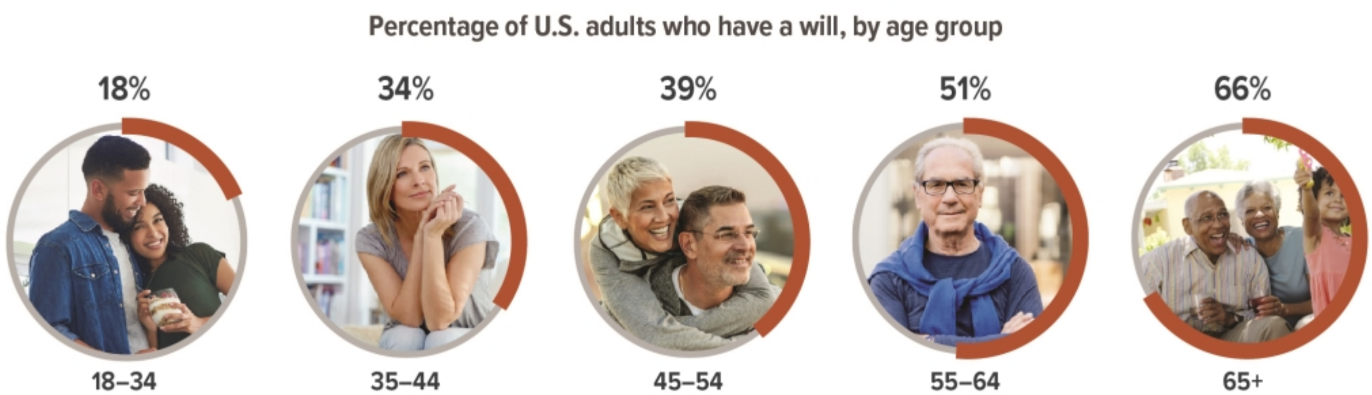
Cape Ann Savings

Trust & Financial Services

John T. Brennan, Esq. CFP®
Vice President/Senior Trust Officer
Cape Ann Savings Bank
Trust & Financial Services
109 Main Street • Gloucester • MA • 01930
978-283-7079
john.brennan@castrust.com • http://www.capeannsavings.bank

Do You Have a Will?

Although 76% of U.S. adults say having a will is important, only 40% actually have one. The most common excuse is, "I just haven't gotten around to it." It's probably not surprising that older people are more likely to have a will, but the percentage who do is relatively low considering the importance of this legal document.



Source: Caring.com, 2019

Tapping Retirement Savings During a Financial Crisis

As the number of COVID-19 cases began to skyrocket in March 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The legislation may make it easier for Americans to access money in their retirement plans, temporarily waiving the 10% early-withdrawal penalty and increasing the amount they could borrow. Understanding these new guidelines and the other rules for loans and early withdrawals may help you determine if they are appropriate options during a financial crisis. (Remember that tapping retirement savings now could risk your financial situation in the future.)

Penalty-Free Withdrawals

The newest exception to the 10% early-withdrawal penalty allows IRA account holders and retirement plan participants to take distributions of up to $100,000 in 2020 for a "coronavirus-related" reason.* These situations include a diagnosis of COVID-19 for account owners and certain family members; a financial setback due to a quarantine, furlough, layoff, or reduced work hours, and in the case of business owners, due to closures or reduced hours; or an inability to work due to lack of child care as a result of the virus. This temporary exception augments the other circumstances for which a penalty-free distribution is typically allowed:

- Death or disability of the account owner
- Unreimbursed medical expenses exceeding 7.5% of adjusted gross income (increases to 10% in 2021)
- A series of "substantially equal periodic payments" over your life expectancy or the joint life expectancy of you and your spouse
- Birth or adoption of a child, up to $5,000 per account owner
- Certain cases when military reservists are called to active duty

In addition, IRAs (but not work-based plans) allow penalty-free withdrawals for a first-time home purchase ($10,000 lifetime limit), qualified higher-education expenses, and payments of health insurance premiums in the event of a layoff.

Work-based plans allow exceptions for those who separate from service after age 55 (50 in the case of qualified public safety employees) and distributions as part of a qualified domestic relations order.

Tax Consequences

Penalty-free does not mean tax-free, however. In most cases, when you take a penalty-free distribution, you must report the full amount of the distribution on your income tax return for that year. However, the income associated with a coronavirus-related distribution can be spread over three years for tax purposes, with up to three years to reinvest the money.[1]

Retirement Plan Loans

If your work-based retirement plan allows loans, you typically can borrow up to the lesser of 50% of your vested balance or $50,000. Most loans must be repaid within five years, but if the money is used to purchase a primary residence, the repayment period may be longer. The CARES Act permits employers to increase this amount to the lesser of 100% of the vested balance or $100,000 for loans to coronavirus-affected individuals made between March 27, 2020, and September 22, 2020.* Affected participants who have outstanding loans on or after March 27, 2020, will be able to delay any payments due in 2020 by one year.[2]

Hardship Withdrawals

Many work-based retirement plans also permit hardship withdrawals in certain circumstances. Although these distributions are not exempt from the 10% early-withdrawal penalty, they can be a lifeline for people who need money in an emergency.

For more information about your options, contact your IRA or retirement plan administrator.

*Employers do not have to adopt the new withdrawal and loan provisions.

1) Amounts reinvested may reduce your tax obligation on the distributions; however, due to the timing of distributions and required tax filings, you may have to file an amended return to seek a refund on any taxes previously paid on withdrawn amounts. 2) The original five-year repayment period will be extended for the delay, but interest will continue to accrue. 3) Source: Plan Sponsor Council of America, 2019 (2018 data)

Five Industries Most Likely to Offer Retirement Plan Loans

Percentage of plans that offer loans, by type of industry[3]

Could You Be Responsible for Your Parents' Nursing Home Bills?

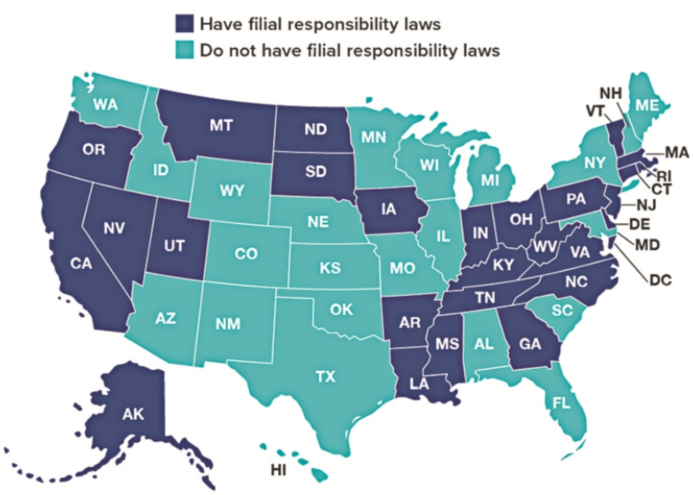
In 26 states (and Puerto Rico), laws generally hold children financially responsible for certain debts of their parents. These laws are referred to as filial responsibility laws (or filial support or filial piety laws).

The details of filial responsibility laws vary by state. Most require that a parent must be deemed unable to pay for the costs of basic care and support before a child may be held responsible. And most states consider the child's ability to pay before holding the child liable for the cost of a parent's health care.

Filial responsibility laws are generally not enforced. But one 2012 case out of Pennsylvania may provide an example of how these laws might be used. *Health Care & Retirement Corporation of America v. Pittas* addressed the question of whether a child can be held responsible for the health-related debts of a parent.

The court found an adult son responsible for $93,000 in nursing home costs incurred by his mother. The court also ruled that there was no duty to consider the parent's other possible financial resources for payment, which included her husband and two other adult children, or the fact that an application for Medicaid assistance was pending at the time of the claim against the child. The court found that the plaintiff had met its burden under the law by proving the child had the financial means to pay the outstanding bill.

States with Filial Responsibility Laws, 2019



As the Pennsylvania case illustrates, filial responsibility laws may come into play in situations when a parent incurs expenses for long-term care and lacks the financial means to pay them. This is not an issue when someone becomes eligible for Medicaid, because Medicaid pays for most long-term care services and does not require the recipient's children to contribute funds toward the parent's care; later, funds can be recovered through the Medicaid estate recovery process. In addition, federal law bars a nursing home from requiring a third-party guarantee of payment as a condition for either admission (or expedited admission) or continued stay of a patient.

What happens when a person admitted to a skilled nursing facility doesn't qualify for Medicaid but lacks the financial resources to pay the bill? For example, it's not uncommon for aging parents to gift assets to their children in order to qualify for Medicaid.

Under current rules, there is a five-year look-back period from the time the application for Medicaid is made. Gifts made during this look-back period may disqualify an applicant from receiving benefits for a certain period, which could be up to several months. In Connecticut, for example, nursing homes have the right to pursue claims against children of patients who made disqualifying transfers of assets (gifts) within two years of applying for Medicaid benefits.

Even though filial responsibility laws haven't been prevalent, soaring long-term care costs could continue to place a growing burden on Medicaid, pushing federal and/or state government budgets higher. More of the cost of health care could shift to patients and their families, giving nursing homes and other health-care providers more incentive to pursue claims against children for the unpaid costs of care provided to their parents.

In any case, filial responsibility laws provide yet another reason for families to plan for long-term care. Talk to a qualified attorney if you have concerns or need more information regarding your specific situation.

Going Mobile

After a slow start, mobile payment usage is growing in the United States. In 2019, an estimated 64 million Americans (about 29% of smartphone users) made a point-of-sale proximity payment with their mobile phones at least once in the previous six months. Mobile peer-to-peer applications, which allow transactions between individuals, have been even more widely adopted, with 69.2 million users in 2019.[1]

Younger people have been the fastest to adopt these new technologies, but mobile payment apps offer features that could be helpful for consumers of any age.

Proximity Payments

A proximity payment involves using your mobile phone to pay at a point-of-sale terminal, typically by scanning a barcode generated on your phone or tapping the phone on the terminal (or holding it close) using near-field communication technology. This allows you to use a mobile phone instead of a credit card or debit card. The mobile payment application is connected to your bank account, a credit card, or a balance within the app.

Proximity payments were originally dominated by proprietary applications controlled by mobile phone manufacturers, but apps offered by specific merchants are now competing with the more general apps. Banks and credit-card companies are also entering the sector as they face competition from new technologies.

Peer-to-Peer Payments

Whereas proximity payments perform a similar function to a credit card or debit card, peer-to-peer payments can replace cash or a personal check.

For example, one member of a group might pay the bill at a restaurant or one roommate might pay the rent, and others can transfer their shares of the payment to the payer through a peer-to-peer application. Such applications are also useful for transferring funds to college students. The payment app is typically connected to the bank accounts of both parties.

Security Concerns

More than half of consumers across all age groups express concerns about the security of personal information when using mobile payment technology.[2] With proper precautions, however, paying with your phone could be more secure than paying with plastic.

Most mobile payment apps generate random numbers or tokens, so the merchant does not receive your underlying financial information. (Linking to a credit card offers greater protection from fraud than a debit card or bank account.) Strong passwords and fingerprint access or facial recognition on mobile phones add another layer of protection. However, it's important to be vigilant against phishing or malware attacks, just as you would with your computer.

1–2) eMarketer, 2019