

Will our daughter's old creditors come after money we gift her?

Photo: pixabay.com

Q. My wife and I are 70 and 73, retired and financially stable. Our oldest child went through a binge of bad behavior between 2010 and 2015 that included a divorce (no children), a repossessed car, defaulted credit cards, SSI for a short time, then SS Disability. She is remarried in Illinois and working part-time along with the SSD and government-provided insurance. She is now 45 and one the straight and narrow. We want to begin gifting her \$15,000 but when money starts appearing in her name, will the creditors come back? Will the government want payback?

— Well-meaning parents

A. We're so glad you asked.

Your generosity could have caused some unintended consequences, but now you can plan ahead.

Creditors can attempt to [collect an unpaid debt](#), but there is a deadline for when a creditor is permitted to take the consumer to court, said Marnie Hards, a certified financial planner with Aznar Financial Advisors in Morris Plains.

The statute of limitations is a rule that limits how long a creditor may legally be able to [sue a consumer](#) for payment on a debt, she said, and typically, the state where you live determines the statute of limitations even if you incurred the debt someplace else.

In Illinois, that statute of limitations for open accounts — including credit card debt — is five years, she said. That's specifically, five years from the last payment made on the account, not from when the agreement was first created.

The statute of limitations for written agreements and promissory notes, such as a mortgage, is 10 years, she said.

“Since this all happened between 2010 and 2015, it is possible that she has reached the five-year mark on some or all [the debt](#),” Hards said. “Keep in mind that if she made even one payment on an expired debt, that could reset the clock and allow the creditor to sue her.”

To be safe, Hards recommends your daughter consult with an Illinois-based attorney to confirm her specific situation.

She could also contact the creditors and ask if the remaining debt is “time-barred.”

“She should also find out the date of the last payment in order to be sure she knows when the statute of limitations expires,” she said. “Unfortunately, the collector does not have to answer, but if they do, they are required to provide a truthful answer.”

In terms of her government benefits, she will be entitled to the [Medicare benefit](#) as long as she remains on Social Security disability, Hards said.

“Medicare will [track her income](#) and assess a higher Part B and Part D premium if their joint income exceeds \$174,000,” she said. “So in this situation, assets in her name will not create a problem unless the income generated from the assets combined with her other income results in breaching that income level.”

Email your questions to Ask@NJMoneyHelp.com.

This story was originally published on Oct. 2, 2020.

NJMoneyHelp.com presents certain general financial planning principles and advice, but should never be viewed as a substitute for obtaining advice from a personal professional advisor who understands your unique individual circumstances.