

HOW TO PROTECT YOUR HOME

Many seniors want to stay in their own homes while receiving long term health care in their later years. However, understanding the costs of care and finding ways to coordinate home care are just a few of the concerns retirees may have.

Sometimes, the home is the largest asset seniors own and knowing how to protect it is often confusing. This summary may offer some assistance in your decision making process:

Leaving your home in your Will:

Your children will inherit the home at the “stepped up basis,” possibly avoiding any capital gains tax if they should sell the home soon after your demise. The drawback would be if there is a need for you to receive assistance from Medicaid nursing home benefits. It could be possible to lose your home to pay for your care.

Outright Gifting home to Children:

If five years pass and then you need Medicaid, you may be able to keep your home. However, your children would be in total control and there have been cases where parents were evicted from their home.

Selling your Home to your Children:

Although you would have to protect the cash from the sale, it may be a way to allow your child to buy a home and protect from Medicaid. Certain criteria should be reviewed to keep the IRS at bay but if you need cash to supplement retirement income, there may be options to protect liquid monies from Medicaid that are right for your situation.

Putting your Home in a Life Estate:

You are protected against being tossed out of your Home by your children because your reserved Life Estate allows you to keep ownership of the home until your death. The property is divided into two parts, the Life Estate and the remainder interest. People who receive or retain a Life Estate (“life tenants”) have the right to use the property during their life time, including the right to any income generated by the property. This right has a value and may be sold to someone else. The remainder interest that is transferred or “gifted away” provides the right to receive the property when the Life Estate ends.

You will not lose your deduction for Real Estate Taxes Paid and your heirs receive the “stepped-up basis” to reduce any capital gain tax liability after your death. Although the Life Estate is the least expensive method of protecting your home from Medicaid claims, there are also draw backs. For example, you may be exposed to the liabilities of your children if they were sued or if the

property was sold prior to your “the grantor’s” death, the recipient of the remainder interest “your children” could owe capital gains taxes with no consideration of the “stepped-up basis” if the home was not their primary residence for at least 2 years. Further, if you sell your Home, the sales price gets paid to two people - you and your children. The part that gets paid to you becomes a countable Asset because it is no longer protected by your Homestead Exemption. Still, as it offers some protection against Medicaid and it is the least expensive strategy, the Life Estate has become a common Medicaid Planning tool.

WHAT ABOUT A TRUST?:

Revocable Trust: You do get to retain complete control and keep the STAR Real Estate deductions. Essentially you are adding beneficiary designations to your home through the Trust. This may help to avoid liability claims if your beneficiary should have a situation where they have a lawsuit against them. Additionally, this Trust avoids estate probate. However, there is NO Medicaid protection here.

Irrevocable Trust: You do NOT get to retain complete control, rather you name a Trustee and beneficiaries while keeping the STAR Real Estate deductions. If the house is sold, the proceeds can go into the trust for future use. The children would also be entitled to the stepped up basis if the house was not sold prior to your demise. However, there is a five-year look back when considering Medicaid planning and the cost of establishing a Personal Residence Trust will be higher than other options.

The bottom line is to recognize what your intentions are. Consider who you want to “inherit” your home and how your home is titled. Also consider how long you plan to live in the house and establish a plan if the home needs to be sold to pay for long term health care. Medicaid planning can become complicated especially if you do not know what you want to have happen when your health changes. This could limit your options drastically.

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