Long Term Care Asset Protection Trusts

Today, the risk of losing your life savings to a long term care illness looms as the largest threat to your future security. That's why one of the biggest questions and concern many people have about their lifetime financial security is what would happen if they suffer a long term disabling illness, such as Parkinson's disease or Alzheimer's.

The reason for this concern is clear. The cost of long term care in Eastern Massachusetts, is now over $10,000.00 a month, or $120,000.00 per year and increasing rapidly. Medicare does not pay for this cost so without long term care insurance, it wouldn't take long for most families to lose all of their hard-earned life savings.

If you are young and healthy enough, you should consider long term care insurance. It's the best option to pay for long term care because it leaves you in greater control over your future. But I meet with many people who either can't qualify for long term care insurance or can

One of the best legal strategies to help families avoid the devastating loss of their life savings is the use of an irrevocable trust to preserve some of your assets. This type of trust is called a Long Term Care Asset Protection Trust. It is also known as a Medicaid Trust or Income Only Irrevocable Trust.

The use of this kind of planning has increased in the last few years, especially since changes in the law enacted in 2006 have made planning ahead of time much more important than ever.

Many people have heard about this kind of planning but want to know more about how it works, when it should be used and the practical differences between an irrevocable asset protection trust and a revocable trust.

The Long Term Care Asset Protection Trust is a legal planning tool that is designed to protect some or all of your assets in case there is a need for an extended period of long term care in the future.

As the name implies, these trusts are irrevocable and require you to give up some control of the assets transferred to the trust. In exchange for protecting your assets from the astronomical cost of nursing home care, Long Term Care Asset Protection Trusts have some conditions attached to the use of the assets in the trust.

Under the terms of these trusts, the transferor ("grantor") can receive all of the income produced by the assets in the trust for the grantor's lifetime. By transferring assets into a Long Term Care Asset Protection Trust, you can still reserve some control and retain some interest in the transferred assets – advantages that are not available when transfers are made outright to individuals.

You receive the income from the trust assets, but not the principal. If the grantor places the grantor's home into the trust, then the trust agreement can specifically provide for the grantor to continue to reside in the home for the grantor's lifetime.

Because Long Term Care Asset Protection Trusts are irrevocable, the grantor cannot revoke the trust and reacquire the assets; therefore, the assets are protected for long term care Medicaid eligibility purposes.

Long Term Care Asset Protection Trust can be written to provide income tax advantages, and to allow the grantor some flexibility to change his or her beneficiaries. The trusts can also be drafted to allow the trust assets to obtain a "step-up" in value so your beneficiaries will not have to pay additional capital gains tax.

These trusts can and should be carefully written, including the maximum flexibility allowed under law, so that you will be protected in case unanticipated events occur happen in the future.

This type of planning is complex and requires up-to-date technical knowledge by the attorney, since the rules governing long term care asset protection, or Medicaid planning, are complex and often changing.

To understand how this planning technique might work in for you and your family, we recommend that you meet with a qualified elder law attorney who is knowledgeable and experienced in this area of the law.

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