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ELDER LAW NEWS UPDATE

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TO: Clients, Friends and Colleagues

**Check out www.eldercareatty.com.

A NEW TWIST TO AN OLD TRUST!

A unique estate planning technique that takes advantage of the current 2021 Federal gift and estate tax exemptions of \$11.7 million per person, or \$23.4 million per married couple, (scheduled to expire in 2026 under the Tax Cuts and Jobs Act of 2017) is the *SLAT*, or the "Spousal Life Access Trust." For those individuals and/or couples who are concerned their estates may become liable for the payment of estate taxes, the SLAT enables the planner to lock in the current exemptions now by gifting his/her assets into an irrevocable trust while maintaining access to the income or principal through the spouse or another individual. *Essentially*, the assets in trust (including their appreciation) will pass outside of the individual's or the couple's estates upon passing.

What does this mean for you? If you are among the 99% of individuals whose estates do not approach the current exemption amounts, you will give this tax savings strategy little thought. Nothing needs to be done. If, however, you are among the 1% of the population that would be affected by a potential decrease in the exemption amounts, then it is prudent to utilize the current thresholds prior to their potential reduction due to changes in the economic and political environments.

THE COMMUNITY MEDICAID CHANGE OF LAW DIDN'T JUST CREATE A 30 MO. LOOK BACK PERIOD

Implementation of the new Community Medicaid Law has been extended to June 2021 due to the Public Health Emergency. Effectively, the changes in the law include more than the creation of a look back period. In order to receive Managed Long Term Care assistance, an applicant must demonstrate a need for assistance with more than two activities of daily living (ADLs) and more than one, if there is a diagnosis of dementia. Further, a newly developed task based assessment tool will be utilized to determine how many hours of home care will be granted and this assessment will be handled by a third party contractor. Currently, these assessments are undertaken by medicaid nurses and home care agencies. Finally, if a case exceeds a "specified level" a separate medical review panel will determine whether the recipient may be appropriately maintained at home. The suggestion here is whether it would be more cost effective to maintain a recipient in a nursing home care as opposed to providing home care.

What does this mean for you? Being aware of the changing economic realities prepares you better for the choices you make. A more restrictive Medicaid Law makes Medicaid planning a more urgent matter.

I hope this has been helpful.

Stay safe and be well!

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