

# IRA M. LEFF

AND ASSOCIATES

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ATTORNEYS AT LAW

1800 CENTURY PLACE, N.E.  
SUITE 100  
ATLANTA, GEORGIA 30345

WWW.IRALEFF.COM

IRA M. LEFF

IRALEFF@BELLSOUTH.NET

DIRECT DIAL: (404) 633-1801  
FACSIMILE: (404) 634-4300

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## ELDER LAW MINUTE

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Many of my clients file simple tax returns each year claiming the standard deduction rather than itemizing their actual deductions. They are not aware that they may be able to deduct the cost of their long-term care and thereby reduce or eliminate their tax liability.

In order to be able to deduct long-term care expenses, the expenses must relate to rehabilitative, maintenance or personal care services. The recipient must be *chronically ill* and the services must be delivered pursuant to a plan of care prescribed by a licensed health care practitioner (M.D., R.N. or L.C.S.W).

An individual meets the *chronically ill* standard if within the previous 12 months a licensed health care practitioner has certified that the individual either is unable to perform at least two activities of daily living (eating, toileting, transferring, bathing, dressing and continence) without substantial assistance for at least 90 days; or the individual requires substantial supervision to be safe from threats to health or safety due to severe cognitive impairment.

All nursing homes are required to maintain written plans of care on each resident. So, if you have a client at a nursing home, typically he can deduct 100 percent of the long-term care expense as a medical expense.

Assisted living facilities, however, are not required by federal or Georgia law to prepare care plans. If your client does not have a written care plan or does not have a chronically ill opinion the client can only deduct the percentage of the long-term care expense attributable to nursing services which is often only 30 to 40 percent of the total cost. In order to be able to deduct 100 percent of the assisted living expenses including room and board, the client should make sure to obtain the chronic illness opinion letter and to have a written plan of action prepared upon admission.

*Member of the National Academy of Elder Law Attorneys*