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November 27, 2008

ELDER LAW MINUTE

Last week, I gave an example of how you can use an immediate annuity to convert excess assets into income for the community spouse and thereby expedite Medicaid eligibility. This week I want to address some questions that some of you asked and I am sure many of you were thinking.

What does it mean that the State of Georgia must be named as the beneficiary of the annuity? This simply means that if John dies during the term of the two year annuity, the State will receive the balance of the payments for the remainder of the term. Since the annuity payout is relatively short, there is not a big risk of John dying during the distribution period.

How can the annuity be actuarially sound if John's life expectancy is 6.41 years? In order for the annuity to be actuarially sound, John must expect to receive back his full purchase price within his actuarially projected lifetime. In this case, John will receive his full purchase price in two years which is certainly within his 6.41 life expectancy.

Won't John and Betty's assets exceed the \$106,400 resource limit after one annuity payment of \$14,600 comes in? Hopefully by then DFCS won't be looking at their combined resources any more. If the case is still pending, John and Mary could each designate up to \$10,000 for burial purposes. After the case is approved, it does not matter what John's assets total.

Do John and Betty have to pay taxes on the \$14,600 annuity payments? They have \$350,000 basis in the annuity and only have to pay tax on the \$400 of gain.

Contact Hudie Lipszyc (404) 846-3066, or Jim Medders (770) 321-2226 for more information about qualifying annuities.

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