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Changes could be coming to estate tax, stepped-up basis rule

A new administration usually means that tax changes are coming. While it remains unclear exactly what estate and inheritance tax changes President Joe Biden's administration and Congress will usher in, two possibilities are lowering the estate tax exemption and eliminating stepped-up basis at death.

The first change would affect only multi-millionaires, but the second could have an impact on more modest estates and their heirs.

In 2017, the federal estate tax exemption was doubled and indexed for inflation. For the 2021 tax year, the exemption is $11.7 million for individuals and $23.4 million for couples. As long as your estate is valued at less than the exemption amount, it will not pay any federal estate taxes.

Biden has expressed an interest in lowering the estate tax exemption, and this spring Vermont Senator Bernie Sanders introduced a bill that would cut the estate tax exemption to $3.5 million for individuals and $7 million for couples.

Under the plan, estates valued between $3.5 million and $10 million would be taxed at 45 percent, with wealthier estates taxed on an escalating scale of up to 65 percent for those over $1 billion. This would be a significant increase from the current tax rate of 40 percent for all estates over the exemption. The bill would also slash the lifetime gift tax exemption from $11.7 million to $1 million, although individuals would still be able to give away $15,000 a year without the gift counting toward the lifetime limit.

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Another possible tax change is to alter how property is valued when it is passed on at death. Under current law, when a property owner dies, the "cost basis" (the monetary value for tax purposes) of the

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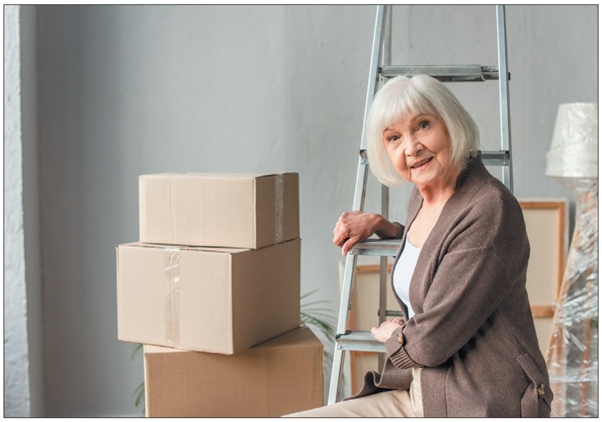
Transferring Medicare and Medicaid plans when you move



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If you plan to move, can you take your Medicare or Medicaid plans with you? The answer depends on whether you have original Medicare, Medicare Advantage or Medicaid.

Medicare

If you have original Medicare (Plans A and B), you can move anywhere in the country and still be covered. Medicare is run by the federal government, so it doesn't matter what state you are in as long as your provider accepts Medicare. Your supplemental (Medigap) plan should also continue to cover you in your new home state, but your premiums may change. The exception is if you move to Massachusetts, Minnesota, or Wisconsin, because those states have their own specific Medigap plans.

Both Medicare Part D (prescription drug coverage) and Medicare Advantage plans (operated by private insurers) have defined service areas, which may or may not cover more than one state. If you have Part D or Medicare Advantage, you will need to determine if your new address falls within the plan's service area. When you move to a new service area, you will have a special enrollment period in which to change plans. If you inform your current plan before you move, your special enrollment period begins the month before you move and continues for two full months afterwards. If you inform your plan after you move, your opportunity to switch plans begins the month you tell your plan, plus two more full months.

Medicaid

Medicaid is a joint federal and state program, and each state has its own eligibility rules. This means you cannot keep your Medicaid plan when you move to a new state. Medicaid eligibility depends on your income, your assets, and the level of care you need. If you have Medicaid and are planning to move, you should contact the Medicaid office in the state to which you are moving to find out the eligibility requirements.

Before you can apply for benefits in the new state, you need to cancel your benefits in the old state. You should file an application in the new state as soon as possible. Usually, if you qualify for benefits they will be retroactive for up to three months before the date you applied. If you end up having to pay for any health care services out of pocket while you are waiting for your application to be approved you should save the receipts, since you may be able to get reimbursed.

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property is "stepped up" to its current value, which becomes the new cost basis. That means if you inherited property that was purchased for $10,000 but is now worth $50,000, the new cost basis would be $50,000. If you sold it right away, you would not owe any capital gains taxes.

A group of Democratic senators has introduced the Sensible Tax and Equity Promotion (STEP) Act, which would eliminate the step-up in basis at death. However, the bill would allow the first $1 million of appreciated assets to pass without taxation. In addition, families that inherit a farm or business would be able to pay the tax in installments over a 15-year period. Any taxes paid would be deductible from the estate tax.

If you are concerned about these possible changes, a trust may be a good way to protect your estate. Property in a trust passes outside of probate, and there are specific types of trusts that are designed to protect assets against estate taxes and capital gains. Talk to your attorney to determine if a trust is right for you.

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Protecting your house from Medicaid estate recovery

After the death of a Medicaid recipient age 55 or older, the state must attempt to recoup from the estate whatever benefits it paid for the recipient's care. This is called "estate recovery." For most Medicaid recipients, their house is the only asset available, but there are steps that can be taken to protect it.

Life estates

For many people setting up a "life estate" is the simplest and most appropriate way to protect a home from estate recovery. A life estate is a form of joint ownership of property between two or more people who each have an ownership interest in the property, but for different periods of time. The person holding the life estate possesses the property currently and for the rest of his or her life. The other owner cannot take possession until the end of the life estate, which occurs at the death of the life estate holder.

As with a transfer to a trust, if you transfer the deed to your home to your children and retain a life estate, this can trigger a Medicaid ineligibility period of up to five years. Purchasing a life estate in another home can also cause a transfer penalty, but the penalty can be avoided if the individual purchasing the life estate resides in the home for at least one year after the purchase and pays a fair amount for the life estate.

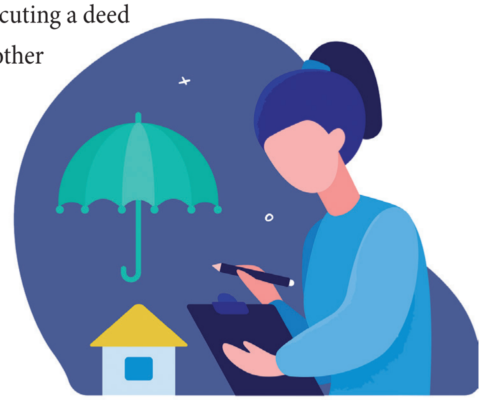
Life estates are created simply by executing a deed conveying the remainder interest to another person while retaining a life interest. In many states, once the house passes to the remainder beneficiaries the state cannot recover against it for any Medicaid expenses that the life estate holder may have incurred.

Trusts

Another method of protecting the home from estate recovery is to transfer it to an irrevocable trust. Trusts provide more flexibility than life estates but are somewhat more complicated. Once the house is in the irrevocable trust, it cannot be removed. Although the house can be sold, the proceeds must remain in the trust.

This approach can protect more of the value of the house if it is sold. If the trust is properly drafted, it may be possible to exclude a significant amount of taxable gain in certain circumstances.

Contact your attorney to find out what strategy will work best for you.



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What to look for when buying an annuity

An annuity can be a useful tool for long-term care planning, but it is a complex financial product that can be hard to understand. If you are purchasing an annuity, you need to consider your options carefully.

An annuity is a contract with an insurance company under which the consumer pays the company a certain amount of money and the company sends the consumer a monthly check for the rest of his or her life, or for a certain term. Annuities come in many flavors. They can be deferred (begin paying out at a later date) or immediate (begin paying out right away). They can pay a fixed amount each month or pay a variable amount based on how the money is invested.

If you have decided an annuity is an appropriate choice for your long-term care or retirement plan, you need to shop around to find the right product. Here are some purchasing tips:

Check the terms. Be sure to read the annuity contract carefully. Annuities often have surrender charges that penalize you for withdrawing your money too early. You need to understand when payouts begin, and if there are fees associated with the annuity. Understanding the fees will allow you to shop around to find the best product.

Choose your salesperson. Insurance companies often pay generous commissions to the brokers who sell their particular annuities. Ask your broker questions to determine how he or she is being paid. You may want to seek a second opinion to make sure your salesperson isn't steering you into a product that isn't right for you.

Select a sound insurance company. Annuity payments are often intended to last a lifetime, so you want an insurance company that will stick around. Make certain that the insurer is rated in the top two categories by one of the services that rates insurance companies, such as A.M. Best, Moody's, Standard & Poor's, or Weiss.

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Will electronic wills go viral?

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More and more transactions are being done digitally, but estate planning has lagged behind technology. That may be changing, however. Even before the pandemic made social distancing necessary, electronic wills were gaining legitimacy.

An electronic will (or "e-will") is a will that is created completely electronically, without paper and ink, using digital signatures. The Uniform Law Commission (an organization that provides states with model legislation they can adopt) recently approved the Electronic Wills Act, which provides a framework for a valid electronic will. Under the act, states determine how many witnesses are required or if a notary is required, and whether the witnesses and notary must be physically present or if a remote or virtual presence is permitted. The act provides that wills must be in text form, meaning that video and audio wills are not allowed. Once the will is signed, witnessed, and notarized (if required), it is complete.

Electronic wills can have benefits in addition to convenience. If a will is stored online, it is harder to lose track of it. If the witness and notary verification process is remote it can be recorded and stored with the will, so that the process is transparent. But there are concerns that electronic wills could make the person creating the will more susceptible to undue influence if a lawyer isn't there in person to explain the details and witness the signing.

So far only Colorado, North Dakota and Utah have enacted the Electronic Wills Act, although legislation has been introduced in Idaho, Virginia and Washington, and Arizona, Florida, Indiana and Nevada have passed their own laws authorizing e-wills.