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ELDER LAW MINUTE

Horace and Winona live with their son, Skip, who assists them with their personal care needs. Horace is a Veteran of the Korean War. The couple is currently over the V.A. resource limit ($70,000±). They asked me if I had any recommendations of how they could access government benefits to help pay for their care.

I suggested that Horace purchase Skip's house from him at fair market value. In so doing, Horace and Winona will convert all of their after-tax investments into an exempt homeplace, leaving them with $70,000 in IRAs. After the closing, Horace will apply for a V.A. pension which will increase their revenue inflow by $2,019 per month. And, the V.A. pension is not taxable income.

I also recommended that they pay Skip for his services. I prepared a Personal Care Contract so that Medicaid will not question these payments should the couple need nursing home care in the future. MEDICAID MANUAL § 2349.

Horace and Winona can deduct the cost of their personal care services if they obtain a chronically ill diagnosis letter from their doctor, and obtain a care plan documenting their inability to perform at least two activities of daily living. This will allow them to spend down their IRAs without paying tax on them. 26 U.S.C. § 213(d)(1) & 7702B(c)(2).

When it becomes necessary of Horace to enter a nursing home, he can transfer ownership of the house back to Skip with no Medicaid penalty, since Skip will have provided care in their home for at least two years before Horace entered the nursing home. MEDICAID MANUAL § 2342-3.

This plan provides V.A., tax and Medicaid benefits all at the same time! Skip is very well compensated for providing two years of care to his parents! Not only does he receive most of his parents' assets without penalty, but he can live in the home free of charge!