Steve Leimberg's Elder Care Law Planning
Email Newsletter Archive Message #23

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Subject: Andrea Schaffer, Michael Geeraerts & Jim Magner - Respect Your Elders but Watch Their Tax Bills

"We're told as kids to respect our elders. From a financial and tax perspective, many states respect senior citizens by providing tax breaks through credits, exemptions and property tax deferral programs. As many senior citizens must get by on fixed incomes, they appreciate that largess and take it into consideration at the voting polls and when deciding where to retire.

An issue that has become more troublesome with property tax deferral programs is that the deferred tax bill and interest charges can compound dramatically over time. Heirs may be surprised when they discover that there is a large deferred property tax bill due on the property they just inherited from a family member, which could result in the sale proceeds going largely to pay deferred taxes plus interest.

Advisors who work with seniors need to ask whether their clients are deferring paying taxes under one of these programs because it could result in the client not fulfilling his or her wishes and estate planning goals. It is not unusual for seniors to have very little assets except the family home to leave to children and passing on a large tax bill may result in a forced sale of the family home that second generation family members may want to keep."

Andrea Schaffer, Michael Geeraerts and **Jim Magner** provide members with commentary that encourages advisors to review how their senior clients are handling the various tax relief programs available at the state and local level.

Andrea Schaffer is the **Chief Strategist** for the **Advanced Financial Strategies Team** at **Pacific Advisors**, a financial services firm in Los Angeles with over 46,000 clients, including more than 10,000 business owners. She specializes in complex strategies for professionals, business owners, and people with significant legacy and estate concerns. Ms. Schaffer is a published commentator and consummate educator, training advisors and specialists on advanced financial strategies. Ms. Schaffer is a recognized MDRT Top of the Table Advisor, a NAWBO Hall of Fame Member, and a former AALU Wealth Transfer Committee Member; additionally, she holds a Masters degree from Claremont Graduate University and CLU®, ChFC®, and CFP® designations. She leads clients and advisors through complex financial concerns, including alternative tax strategies, asset protection, executive compensation, and advanced charitable planning.

Michael Geeraerts, CPA, JD, CGMA®, CLU® is an advanced planning consultant at **The Guardian Life Insurance Company of America**®. Prior to joining Guardian, Michael was a manager at PricewaterhouseCoopers LLP and a tax consultant at KPMG LLP. Michael's experiences range from preparing tax returns for middle market companies, auditing billion dollar mutual funds' financial statements, to researching unique tax savings strategies for various companies. Michael has written articles for numerous national publications and has delivered continuing education courses to CPAs and attorneys on a variety of estate, business and income tax planning strategies.

Jim Magner is an advanced planning attorney at **The Guardian Life Insurance Company of America®**.[i] Prior to joining Guardian, Jim was General Counsel for a broker dealer/brokerage general agency. Jim previously worked as an Attorney-Advisor in the IRS's Office of Chief Counsel, in Washington, DC. where he wrote private and public rulings on transfer tax and charitable remainder trust issues.

Here is their commentary:

EXECUTIVE SUMMARY:

Many senior citizens get by on fixed incomes, so they appreciate tax breaks that many states provide and take them into consideration when deciding where to retire. Seniors who currently live in states that have high property taxes and income taxes will take notice of the $10,000 deduction cap for state and local taxes contained in the Tax Cuts and Jobs Act. States that provide tax breaks may benefit from retired seniors moving to the state and spending their retirement income that was earned while living in a different state. On the flip side, these tax breaks may shrink state revenues earmarked to fund care for aging seniors.

COMMENT:

States have several ways to provide tax breaks to seniors. These tax breaks or abatements are "tax expenditures" that benefit seniors by reducing their taxes. Here are some tax breaks offered to seniors:

- States may offer tax credits to seniors that may phase-out at higher income levels.

- States may offer homestead exemptions that lower the taxable value of a residence.

- States may offer property tax-deferrals that allow seniors to defer paying property taxes until the property is sold or upon death of the owner.

- States may offer tax limits, caps, and freezes that limit the increases in property values for property tax assessment purposes, cap the property tax rates, and freeze property values for property tax assessment purposes.[ii]

Public officials often promote these types of senior tax breaks to attract retirees to their states so that the retirees can spend their retirement savings that was earned in another state in a new home state. States that offer these tax breaks may be in a better position to attract wealthy retirees given the $10,000 cap on the state and local federal tax income tax deduction under the Tax Cuts and Jobs Act.

While these state tax breaks appear to be a boon for both seniors and states, they may also reduce tax revenue used to fund care for aging seniors. As seniors age, their private resources may not last long due to expensive medical services and long-term care. Medicaid is a very large, if not the largest, budget item for many states, which may face increasing trouble if tax breaks reduce revenues.

It has not gone unnoticed that states in the Northeast tend to offer bigger tax breaks to the elderly, while at the same time having generous public social programs.[iii] This seems to be a Catch 22 – states wanting to offer tax breaks to seniors but also providing generous publicly-funded medical care and senior services. Many states have clearly had budget issues, further highlighting the fact that tax breaks may not be something that states can continue to offer. Additional demands on state budgets could come with some wealthy people of all ages perhaps starting to "flee" the high tax states in the Northeast due to the $10,000 cap on deducting state and local taxes.

Property Tax-Deferrals: A Ticking Time Bomb Advisors Must Carefully Monitor

Several states allow seniors to defer paying their property taxes until the property is sold or upon death of the owner.[iv] These property tax-deferral programs assist seniors who have limited incomes by allowing them to defer property taxes until they die and the house is sold. Interest is charged on the amount deferred and the rates vary town by town. For example, in Massachusetts, municipalities are allowed to charge interest between 0% and 8%.[v] A few towns charge no interest and some charge between 1% and 3%. However, more than 75% of towns and cities charge the maximum 8%.[vi]

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Advisors who work with seniors need to ask whether their clients are deferring paying taxes under one of these programs because it could result in the client not fulfilling his or her wishes and estate planning goals. It is not unusual for seniors to have very little assets except the family home to leave to children and passing on a large tax bill may result in a forced sale of the family home that second generation family members may want to keep.

Retirement Savings & Insurance

Advisors who work with clients approaching their "golden years" should highlight the importance of having sufficient retirement savings to pay bills, including their tax bills and medical bills. With the rising cost of medical care and long-term care, clients may be receptive to hearing about long-term care insurance to provide a means to pay long-term care expense without depleting their entire retirement nest egg. Cash value life insurance may also provide tax-deferred supplemental retirement income, while providing a death benefit that can go to heirs or be used to pay off deferred tax bills. Hybrid life and long-term care insurance policies may provide a means to cover a client's varying goals and needs.

HOPE THIS HELPS YOU HELP OTHERS MAKE A *POSITIVE* DIFFERENCE!

Andrea Schaffer

Michael Geeraerts

Jim Magner

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professional regarding your individual situation. Not practicing for Guardian or any subsidiaries or affiliates thereof. 2018-63429 (Exp. 7/2020).

Policy benefits are reduced by any outstanding loan or loan interest and/or withdrawals. Dividends, if any, are affected by policy loans and loan interest. Withdrawals above the cost basis may result in taxable ordinary income. If the policy lapses, or is surrendered, any outstanding loans considered gain in the policy may be subject to ordinary income taxes. If the policy is a Modified Endowment Contract (MEC), loans are treated like withdrawals, but as gain first, subject to ordinary income taxes. If the policy owner is under 59 ½, any taxable withdrawal may also be subject to a 10% federal tax penalty.

[ii] The Pros and Cons of State Tax Breaks for Senior Citizens, May 1, 2013, available at https://scholars.org/brief/pros-and-cons-state-tax-breaks-senior-citizens.

[iii] The Pros and Cons of State Tax Breaks for Senior Citizens, May 1, 2013, available at https://scholars.org/brief/pros-and-cons-state-tax-breaks-senior-citizens.

[iv] The Pros and Cons of State Tax Breaks for Senior Citizens, May 1, 2013, available at https://scholars.org/brief/pros-and-cons-state-tax-breaks-senior-citizens.

[v] Sean Murphy, *An Inheritance Damaged by Delayed Taxes*, Boston Globe, June 18, 2018.

[vi] Sean Murphy, *An Inheritance Damaged by Delayed Taxes*, Boston Globe, June 18, 2018.