

The Pros and Cons to Using a Life Estate Deed for Medicaid/MassHealth Planning

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A Life Estate Deed enables you to transfer the future ownership interest in your primary residence to person(s) of your choosing while retaining the exclusive right to use the house for the rest of your life. Life Estate Deeds can be very effective and economical tools to help you preserve your house without disqualifying yourself from receiving Medicaid or [MassHealth](#) long term care benefits. For more information about Life Estate Deeds please see the link to our blog on that topic [here](#).

The needs of each person are different and for this reason it is important to have an Estate Plan that is customized to meet your needs and budget. Life Estate Deeds can be an affordable and effective tool for your Estate Plan. To help you consider the use of a Life Estate we have summarized a list of the pros and cons of using a Life Estate as part of your Estate Plan.

Life Estate Pros:

- The ownership interest in your property passes to the persons you choose outside of probate to protect the asset from creditors before and after you die.
- After the passage of five (5) years the transfer of your property will not be counted as an asset by MassHealth and will not disqualify you from receiving MassHealth benefits.
- If you apply for MassHealth benefits before the passage of five (5) years, only a portion of the value of your house will be counted as an asset by MassHealth.
- A life estate does not need to be updated to ensure compliance with changes in the law that more commonly impact other Medicaid or MassHealth planning tools such as an irrevocable trust.
- For estate tax purposes, the remaindermen will receive a “step-up in basis” when the owner of the life estate dies. This means that for tax purposes, your house will be valued as of the date of your death rather than the value on the date you first purchased it, which can help avoid capital gains taxes if the property is sold after you die.

Life Estate Cons:

- Can only be used for your primary residence.
- Subject to the MassHealth five (5) year look back period.
- In order to refinance or sell the house you need the consent of the person(s) you transferred your future ownership interest to (i.e. the “remaindermen”).
- If you require skilled nursing care MassHealth may attribute the fair market rental value of your house as income.
- You must continue to pay the expenses of the property and the taxes on the property

Please feel free to contact our office at [\(508\) 880-6677](tel:5088806677) to speak with one of our experienced attorneys today about how we can assist you in using a Life Estate Deed and to create a customized Estate Plan to meet your needs and budget.



What Is a Life Estate Deed and How Can It Be Used to Help Protect my House?

What Is a Life Estate Deed and How Can It Be Used to Help Protect my House? A Life Estate Deed enables you to transfer the future ownership interest in your primary residence to person(s) of your choosing. Those persons are called “remaindermen” and can be family, friends, or any other person that you choose. With a Life Estate Deed, the transfer of the future ownership interest in your house, will not prevent you from [...]