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5 Questions to Ask Before Making Gifts for Medicaid or Tax Planning

Many seniors consider transferring assets for estate and long-term care planning purposes, or just to help out children and grandchildren. Gifts and transfers to a trust often make a lot of sense. They can save money in taxes and long-term care expenditures, and they can help out family members in need and serve as expressions of love and caring.

But some gifts can cause problems, for both the generous donor and the recipient. Following are a few questions to ask yourself before writing the check:

1. **Why are you making the gift?** Is it simply an expression of love on a birthday or big event, such as a graduation or wedding? Or is it for tax planning or long-term care planning purposes? If the latter, make sure that there is really a benefit to the transfer. If the value of your assets totals less than the estate tax threshold in your state (Vermont is \$4.25 Million in 2020 and will increase to \$5 Million in 2021), your estate will pay no tax in any case. For federal estate tax purposes the threshold is \$11.58 million (in 2020). Gifts can also cause up to five years of ineligibility for Medicaid, which you may need to help pay long-term care costs.
2. **Are you keeping enough money?** If you are making small gifts, you might not need to worry about this question. But before making any large gifts, it makes sense to do some budgeting to make sure that you will not run short of funds for your basic needs, activities you enjoy -- whether that's traveling, taking courses or going out to eat -- and emergencies such as the need for care for yourself or to assist someone in financial trouble.
3. **Is it really a gift (part one)?** Are you expecting the money to be paid back or for the recipient to perform some task for you? In either case, make sure that the beneficiary of your generosity is on the same page as

you. The best way to do this is in writing, with a promissory note in the case of a loan or an agreement if you have an expectation that certain tasks will be performed.

4. **Is it really a gift (part two)?** Another way a gift may not really be a gift is if you expect the recipient to hold the funds for you (or for someone else, such as a child) or to let you live in or use a house that you have transferred. These are gifts with strings attached, at least in theory. But if you do not use a trust or, in the case of real estate, a life estate, legally there are no strings attached. Your expectations may not pan out if the recipient does not do what you want or runs into unexpected circumstances – creditor issues, a lawsuit, divorce, illness -- that no one anticipated. If the idea is to make the gifts with strings attached, it is best to attach those strings legally through a trust or life estate.
5. **Is the gift good for the recipient?** If the recipient has special needs, the funds could make them ineligible for various public benefits, such as Medicaid, Supplemental Security Income or subsidized housing. If you make many gifts to the same person, you may help create a dependency that interferes with the recipient learning to be independent. If the recipient has issues with drugs or alcohol, they may use the gifted funds to further hurt themselves.

If after you have answered all of these questions and you still wish to make a gift, please go ahead. But unless the gift is for a nominal amount, it is advisable to check with your attorney to make sure you are aware of the Medicaid, tax and other possible implications of your generosity.