

PLANNING PERSPECTIVE

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What Happened To The Estate Tax Law?

In 2000, Congress set up a situation where a chaotic, complicated, and disruptive set of changes to our tax laws would occur under the guise of “estate tax repeal” in 2010. As time passed and Congress failed to find a better way to handle these tax issues, there was a very compelling case to be made that the 2009 estate tax rules should be extended into 2010 and beyond.

Unfortunately, Congress found a way to do nothing, so we need to address the unique situation for 2010. What should you do?

- Determine whether you are affected by these changes. Estates with more than \$1 million in assets are most affected. Review your assets and insurance to determine whether this will include you.

- Estate plans that allocate assets based upon the amount of the federal estate tax exemption will need to be changed. Review your Will or Revocable Trust to see whether the estate tax exemption is part of your distribution plan.

In some cases, it may be beneficial to change your estate planning documents to keep pace with the new law. There is also an opportunity to learn about the new “carryover basis” rules that may affect capital gains taxes in the future. However, you should remember that until September, Congress could still change the tax laws and decide that the 2009 rules will apply in 2010 and beyond. This is a time of great uncertainty and there is no real way to know what the right choices are.

The only difference between death and taxes is that death doesn't get worse every time Congress meets.

- Will Rogers

The Estate Plan Watchdog™

You make a significant investment in your estate plan when you put in place a Will or Revocable Trust. In addition to the money that you spend, you also invest time and careful thought into the decisions that you make and the plan that you create for your family and heirs.

It is important to protect your investment and ensure that your estate plan will be there to guide your family and carry out your wishes. One of the greatest risks to any estate plan is that many documents that affect your plan are not in the lawyer's office when you sign your Will or Revocable Trust. Beneficiary Designations on life insurance, retirement accounts, and other assets are just as powerful as the Will or Revocable Trust. Your plan will go awry if they are not properly coordinated.

We developed a simple tool to help you review your various beneficiary designations and identify any issues that you may have. The Estate Plan Watchdog™ will organize these potentially confusing and frustrating designations so you can be confident and well informed about the plan that you made for your family. If you do discover any issues, completing the Estate Plan Watchdog™ will give you the information you need to ask the right questions and take action.

Even if you're on the right track, you'll get run over if you just sit there.

- Will Rogers

Five Things You Need To Know

It can be hard to keep estate planning and planning for Medicaid and nursing homes simple. However, not all of the legal and financial issues need to be complicated. There are some basic points that answer key questions, clear things up, or point you toward important things you need to know.

For example, when you have a Will as part of your estate plan, it is important to keep in mind that:

- A Will is part of the probate process and your estate will pass through probate;
- A Will is one of the best ways to put your goals and objectives in a single document that is easy to keep track of;
- A Will does not control beneficiary designations or P.O.D. (Payable On Death Designation) arrangements;
- A Will is the only document where a family can control who is named guardian for minor children;
- An “old” Will may still do a great job for your estate, but it is a good idea to read your Will from time to time.

Visit fitzgeraldlawoff.com for more information about Wills and similar overviews of “Five Things You Need to Know” for Revocable Trusts, Life Insurance, Medicaid Planning, and Decisions You Make at the Bank.

The Estate Plan Watchdog™ is great for a five-year review of your plan or to follow up on any new investment or change in your finances that involves naming a beneficiary. You can find a copy on the website at www.fitzgeraldlawoff.com/ourpractice/printableforms.

The Last Social Security Check

One of the most frequently asked questions regarding a deceased client's estate is whether the final Social Security check must be returned to the Social Security Administration. Social Security payments are usually directly deposited into a bank account. It can be very important to know whether Social Security payments will remain in the account after the death is reported to the Social Security Administration.

The answer depends upon when the Social Security recipient dies. The Social Security Administration will only seek to recover a Social Security check that is paid in the month following the month of death. For example, if a person dies November 30, and a Social Security check is deposited into their account a few days later, say December 3, this check will need to be returned to the Social Security Administration. The death occurred in a different month than the month when the check was received.

Under this rule it is also possible for a deceased person's estate or bank account to receive a Social Security check after death and not have to return it to the Social Security Administration. For example, if a person dies November 1, and the Social Security check is deposited into the account November 3, the Social Security payment comes during the same month as the date of death, so the deceased or their estate is entitled to keep the check.

Confusion may occur when someone's Social Security check is paid out on the third Wednesday of the month. If the person dies early in the month, there is enough time for their bank to be notified of the death and shut off automatic deposits to their account. In this case, the final Social Security check has been earned, but the deceased's heirs need to contact the Social Security Administration directly to recover the final payment.



Programs and Events

The exclusive client seminar in November was a great success. An overview of the seminar and other materials related to the areas covered are available on the website at www.fitzgeraldlawoff.com.

Doug continues to produce his cable television program. Recent topics included "Five Important Things to Know about Wills and

Revocable Trusts," "Things You Should Know about Long-Term Care Planning," and "How You Benefit from a Geriatric Care Manager." Excerpts from these shows and more are available on the Web site at www.fitzgeraldlawoff.com/DougTV.

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Always do right. It will gratify some
people and astonish the rest.

- Mark Twain