

# PLANNING PERSPECTIVE

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If we could choose one word to describe the past year it would be “change.” A number of new laws have taken effect in the past few months and more new rules are expected to come out in the near future. Fitzgerald Law Office also experienced its own transformation since last Fall. With each new change comes an opportunity. We look forward to working with our clients to understand this changing world and plan for the future.

## Estate Tax Law: Something Old and Something New

After over a year of speculation, in December 2010, Congress and President Obama worked out an eleventh hour compromise to avoid a significant estate tax increase that was scheduled for 2011.

First, let's review what is new under this tax legislation:

- For single people dying in 2011 or 2012, estates worth less than \$5 million will pay no estate tax.
- For married people dying in 2011 or 2012, the family can avoid estate taxes on between \$5 million and \$10 million in assets.
- During 2011 and 2012, gift taxes will not be due if the total amount of lifetime gifts is less than \$5 million.

This is good news for families with assets between \$1 million and \$10 million, who would have faced estate taxes if Congress and the President had failed to take action. For a more complete discussion of the new tax law, view the article “Estate Tax Law 2011” at [fitzgeraldlawoff.com/news](http://fitzgeraldlawoff.com/news).

Unfortunately, a number of things did not change with the new tax law. Most importantly, the new tax law is only temporary. There is no guarantee what the tax law will look like after 2012. Until Congress resolves the country's fiscal problems and settles the direction of tax policy, planning for the future will be a real challenge. This is the same old guessing game that we have lived with for the past 10 years. Thus, for now we will need to continue tolerating uncertainty and planning around a tax code that is a moving target.

## Wisconsin's New Power of Attorney Law

Financial powers of attorney are valuable tools for estate planning. However, for years Wisconsin's laws regarding financial powers of attorney have not been as specific as the statutes in other states. As of January 2011,

Wisconsin has new and more detailed laws for financial powers of attorney and the agents who serve as a power of attorney.

The new law says that existing power of attorney documents will continue to work. Thus, there is no reason to change your current financial power of attorney. Still, there are some situations where you may want to upgrade your current documents:

- If an important reason for the power of attorney is to authorize gifts that may protect assets from nursing home bills and long term care costs, new language may be required to authorize a comprehensive plan for making gifts, divesting assets, and other asset protection strategies.
- If there is any potential for disagreements or conflict within the family, additional provisions will be a good idea to protect the person you choose as agent from lawsuits.

In the future, we will upgrade powers of attorney for clients as we meet with them for new work. If it has been a few years since you signed your estate planning documents, the new power of attorney law is one more reason why it makes sense to review your plan.



## Wisconsin's State Budget and Government Benefits for Long-Term Care

While many parts of the State budget grabbed headlines, some less-publicized budget provisions had a significant impact upon long-term care benefits. The Family Care program is the source of financial assistance for people receiving care at home or in assisted living facilities. Family Care could cover all types of care for people not in a nursing home.

**It's no wonder that truth is stranger than fiction. Fiction has to make sense.**

- Mark Twain

In the past, there was a waiting list for those eligible for Family Care benefits. If you met the financial requirements, you could be required to pay your own bills and expenses for months or years before the government had money available to help. This year, the waiting lists were scheduled to end and the government planned to get benefits to all those who met the eligibility requirements. However, as of June 2011, enrollment in Family Care was stopped completely. People currently on the waiting list and new applicants will not receive assistance until the Department of Health Services in Madison studies what to do about providing aid to people who are not in nursing homes.

In the short term, government benefits are available only to people receiving long-term care in a nursing home. Planning must

be very cautious if you anticipate the need for assisted living or other non-nursing home types of care. You cannot count on government assistance until we receive guidance from Madison regarding funding, eligibility requirements, waiting lists, and other issues.

## What is New at Fitzgerald Law Office

In September 2010, Kristen Belger joined the firm as an Office Assistant. Kristen manages the calendar, schedules appointments, and coordinates phone calls, e-mails and other client communications.

In February 2011, TerryLynn Johnson joined the firm as a Legal Assistant. Terry will focus on preparing estate planning documents, managing administration of probate and revocable trust estates, and developing applications for government benefits through the Medicaid and Family Care programs.

The [fitzgeraldlawoff.com](http://fitzgeraldlawoff.com) website is also getting an upgrade. The new look will make it easier to access articles, information, and unique tools that are being added to the site.

## Programs and Events

Doug attended the Notre Dame Tax and Estate Planning Institute in October 2010. The seminar focused on issues affecting trust administration and strategies to manage the uncertain environment surrounding the estate tax law.

Many clients attended the exclusive client seminar in November. Doug reviewed how estate taxes work and who is at risk

## A Joke

Jodi: Knock, Knock.  
Kristen: Who's there?  
Jodi: HIPAA.  
Kristen: HIPAA who?  
Jodi: I can't tell you.

of paying estate taxes. Doug also outlined strategies for administration of estates and non-probate assets after death. You can see an overview of the seminar at [fitzgeraldlawoff.com/news](http://fitzgeraldlawoff.com/news).

In April, Doug participated in the West Bend Police Department's Citizen's Academy. This outstanding six-week program provided a behind-the-scenes view of the training, hard work, and challenges that law enforcement officers face as they protect and serve the community.

In May, Doug was one of the presenters at the 2011 Washington County Senior Conference. Doug teamed up with other members of the Elder Abuse Interdisciplinary Team to discuss "Common Mistakes Other People Make: Top 10 Things You Should Avoid."

The Threshold recently featured Fitzgerald Law Office and our employee Meg Pompe. Meg is a valuable member of our team who works through the Threshold's Day Supported Employment Program. It was great to see Meg's hard work recognized. You can view the Threshold's letter at [fitzgeraldlawoff.com/news](http://fitzgeraldlawoff.com/news).

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