



# Trust and Estate Planning News and Updates

The Good News, Updates, and Important Information From Your Friends at **Unruh, Turner, Burke & Frees.**

[utbf.com/trust-estate](http://utbf.com/trust-estate)

| [paestateplanners.com](http://paestateplanners.com)

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## Am I Leaving My Spouse a Tax Problem? | By: Whitney O'Reilly

If your will or revocable living trust contains a “marital”, “residuary” or “disclaimer” trust for your spouse, then the trust must be a “sole use trust” in order to be taxed at 0%.

What does that mean and why does that matter? Well, if the trust for your spouse is not a sole use trust it could trigger a 4.5%, 12% or 15% tax on the full value of the assets in the trust **at your death** depending on who gets the money when the surviving spouse dies.

For Pennsylvania Inheritance Tax purposes, property passing to a surviving spouse is taxable, but at a rate of 0%. This rate applies to both outright transfers and to trust transfers for the “sole use” of the surviving spouse. For example, a trust under which the surviving spouse is the only possible income and principal beneficiary during the spouse’s lifetime, would be taxed at 0%.

However, if anyone else (such as your children or grandchildren) could also get money from the trust while your spouse is alive then inheritance tax will be triggered at the death of the first spouse (not at the death of the surviving spouse).

Let’s use examples to illustrate:

**Qualified Sole Use Trust – NO TAX:** The trust would say something like... “to my spouse for his/her health, education, maintenance and support...” If this is what it says, then when you die, your spouse pays no tax. And your children will only be taxed when he/she passes away.

**Disqualified as Sole Use Trust – TAXED AT DEATH OF SPOUSE:** This type of trust might say... “to my spouse **and my children** for their health, education maintenance and support...” Just use those 3 little words “**and my children**” and the trust has now triggered a tax when there did not need to be one.

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## SPRING 2017

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## Everyday Life Hacks & Cheats |

**Check email less often to stress less!** A study in the journal *Computers in Human Behavior* reported that there was a reduction in stress in people who checked email only five times a day versus whenever they wanted. You might be more productive by setting specific times during the day to check email (and turn off notifications of incoming email). You’ll have more uninterrupted time to work on projects rather than reacting to each email that pops up.

**Trying to get more exercise but can’t figure out how to fit it in?** Try shorter sessions of activity throughout the day. A short walk in the middle of the day, or just before you leave the office will help you squeeze in a few more active minutes. Visit <http://bit.ly/INTOPFORM1> and listen to podcast 4 for more tips on faster fitness.

**Want to eat healthier lunches? Avoid buying lunch.** Instead, make a large batch of soup that you package into lunch portions for the week. Cut up fresh veggies and fruit in advance so they are easy to access and pack in the morning. Make a wrap or sandwich or package up your leftovers into single servings.

## Is Your Child or Grandchild Heading Off to College in the Fall? | If “yes”, then **READ THIS!**

We tend to think that power of attorney documents are only for the elderly. And, it’s true that a well drafted and customized power of attorney (POA) can help us to manage a parent or grandparent’s affairs, and to make health care decisions, to get medical records and to generally get done what needs to get done.

But, when a college student needs help we are often powerless to help – even as parents. Once your child turns 18, you need a HIPAA authorization just to talk with the doctor or to get copies of medical records. Want to see their grades? Well, you’d better be on good terms with that student because, without their permission, or a power of attorney you’re not getting a copy from the school. And no, just because you pay the tuition doesn’t override the school’s privacy policy.

Have a student that needs you to do banking while they are away at school? Again, you might need a POA. A medical or other emergency? What is a parent to do without a medical POA?



First, your son or daughter is now an adult and you need to talk to them. Explain that in the event they have a medical emergency or need you to help with finances or banking, then you’ll need a HIPAA authorization, a medical POA and possibly, a financial POA. They should also know, that such documents can be revoked at any time, so they remain in charge of their own affairs. You should also agree in advance how and why such documents would be used. Will this be expensive? Probably not. Most banks and brokerage firms offer their own limited POA for individual accounts and these are free,

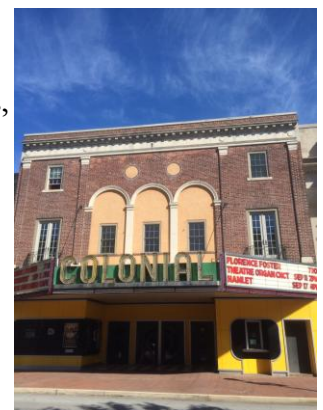
but what you need is different. Some law firms offer a free consultation for family members of their clients or for new clients and many also offer discounted fees for college students or family members of their clients. We do both. Make sure that the discounted fees will include a durable or limited POA, a medical POA, and a living will (if desired) and a HIPAA authorization. With these documents, you’ll have the ability to get grades, deal with financial emergencies or ordinary transactions, and with medical issues including emergencies.

Without them, you might be shut out of certain information and decision making pending an expensive guardianship proceeding in court. It’s not too early for a young adult to start thinking about a basic will. This summer I had a number of young clients come to see me after their parents’ appointments to do wills before they went back to school. Mention it for your college aged student to consider.

**Want our “college plan”? Call 610-933-8069 to find out more information.**

**Top Ranked Local Towns |** Phoenixville, along with West Chester and Philadelphia, have been named among the 10 most exciting places in Pennsylvania by national real estate blog Movoto. Pittsburgh was ranked number one. Movoto analyzed things like nightlife, live music venues, parks, movie theaters, non-fast food restaurants, young residents, and population density. Using this criteria, Phoenixville ranked fifth in the entire state.

Here's what they had to say about the borough: "This borough of just over 16,000 is like Burning Man meets suburbia in a classic movie with a kick-butt soundtrack. In other words, not only did Phoenixville rank well in our analysis for its nightlife, music venues, and arts options per capita, but it’s also home to the bonfire Firebird Festival each year, and the Colonial Theatre, where scenes from the classic movie “The Blob” were filmed! If that’s not exciting enough for you, Phoenixville also came in high for its active life options. So you see, Burning Man meets suburbia in a classic movie, with a kick-butt soundtrack. Boom."



**ATTORNEY SPOTLIGHT** | Whitney O'Reilly, who joined the firm as an Associate Attorney just a few years ago, received both her estate planning certificate and a Master's degree in taxation (LLM) from Temple University this past year.

She has been and continues to be an advocate for our clients relating to work in her practice area which focuses primarily in estate planning, wealth transfer planning, trust creation, modification and estate and trust administration. She is one of a select few attorneys with these highly technical credentials. We are proud to have her as part of our team of experienced and knowledgeable attorneys.

### **Congratulations Whitney!**

Get a copy of "Enhanced Estate Planning for New Mothers" an interview between Whitney and David Frees which answers many frequently asked or "should ask" questions. It's a great report for young (growing) families who are just starting to think about estate planning, guardians and asset protection for their children. Call the office 610-933-8069 and ask for a copy!



### **Tax Problem (Continued from Page 1)**

Why would anyone do a trust for their surviving spouse AND children (which would trigger the tax)? Well years ago, the same tax rate applied to the surviving spouse and the children, so this type of trust made sense. Other reasons? Well what if you had limited funds when you were younger and wanted them to be used for your surviving spouse and kids. You might do that kind of trust. But now it's a bad result.

Estate law is ever changing and something that made sense years ago, may not make sense anymore. Something that was innocuous or beneficial in your trust could now be very disadvantageous like those 3 little words.

It is always a good idea to have your attorney review your Will every few years so things like a spousal trust still work the way that you want them to and do not trigger unnecessary expenses for your grieving family.

**Take the quiz in the insert to know if you need to fix any problems right away!**

### **Get Your Questions Answered |**

**Q. I am an executor of an estate. What do I need to know?**

**A.** Being appointed as the executor of an estate is a sign that the person who wrote the will had great respect for you and your judgement. But it is also a big job – even in small estates. Executors are charged with 1) gathering together and identifying assets, 2) getting them valued, 3) filing lifetime income tax returns, 4) filing death tax returns, 5) protecting (often selling) assets, and 6) distributing them under the will. There are numerous rules that apply – and you can be sued. To avoid making the most common mistakes download a copy of our report, "*The 10 Most Common Mistakes Executors Make*" at <http://bit.ly/1pMyQZP>.

Also, consider hiring legal counsel as they will make sure you have a clear timeline and know the actions required by law and the will. That representation should minimize the likelihood of litigation and may protect you if it occurs. **If you have an estate planning, trust or elder law related question you would like answered, please email Lisa at [lsnyder@utbf.com](mailto:lsnyder@utbf.com) with it and we'll feature the answer in a future edition.** Please note, that the answers to these questions assume many particular facts and are not based on your particular circumstances. They do not constitute legal advice and are for informational and educational purposes only.



## Exclusive Complimentary Client Call In Hours: Mark Your Calendar for May 9, 2017

Have a quick question about your estate plan, elder law, being an executor or trustee, and/or changes in the estate or inheritance tax laws? We have **free** call in hours as an exclusive bonus for our clients.

These call-in times are limited and are on a first come/first served basis. You can have up to ten minutes of free attorney time but note that charges may apply if you need formal legal representation or help.

**EXCLUSIVE CLIENT CALL IN HOURS:**  
Tuesday May 9th from 11:00 am to 1:00 pm.  
To get your free call dial 610-933-8069.  
This is an exclusive UTBF client benefit.

**As always, you will never be charged unless you agree to the fee in advance.**



### Coming Soon in UTBF News & Updates

- Getting Children & Grandchildren Ready for College [The Legal Documents You Need]
- Summer Entertaining & Recipes
- How Executors & Trustees Should Pick Lawyers & Accountants to Limit Liability & Problems

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Action is the foundational key  
to all success.  
— Pablo Picasso