

The New Rules of Estate Planning

by David M. Frees III, JD

I've spent almost three decades and over \$3,654,000 learning, researching, testing, adapting, (teaching these to lawyers), and successfully implementing estate planning tools and techniques to protect my clients, your heirs and loved ones from probate and administrative fees, high nursing home costs, litigation and divorce (as in - what happens if your son or daughter inherits your wealth/assets then gets divorced?)

But the rules keep changing...

There has recently been a massive shift in estate planning options and in federal tax and state will and trust laws that makes older documents and ways of thinking about estate planning obsolete or even counterproductive.

There really are new rules of estate planning and I'm ready to share five of the newest, most effective, long lasting estate planning solutions and ideas in the most easily understood and usable format.

That can make a real difference!

These new rules can transform how you enjoy your own wealth and lifestyle,

and how you protect your spouse, children, and heirs as well. In short, these are the new rules of how to leave a lasting legacy – regardless of the size of your estate.

NEW RULE #1 - Change your beliefs about what is now possible

Believe it or not Congress agreed and got this right. There are now new federal estate tax rules that allow you to do much more with your estate planning, wills, and trusts than you thought possible - up until now. *But you won't notice, use, or enjoy the benefits until you realize that it's possible.*

The Massive Tax is Now Gone for Many Estates

For decades, families with over \$600,000 of assets (including houses, retirement plans and life insurance – *yes life insurance IS taxed by the federal government*) were subject to a massive 42%-55% federal estate tax and had to spend time and money trying to avoid that tax – often ignoring the more pressing problems of protecting their heirs from nursing home costs and/or divorce.

But NOW, thanks to a very recent gift from the federal government, estates of \$5,430,000 or less (and this is indexed for inflation so it can go up) aren't even taxable.

What Does This Mean for You?

...Once you accept this and realize the incredible power of leverage that this offers many families, then suddenly your old way of doing estate planning transforms.

...Once you know this, your mind is opened to having much more flexibility in your estate planning. You can revise your will and give money to trusts NOW (during your lifetime) to protect your spouse and heirs from the high costs of nursing care.

Using the Right Kind Of Trust is More Important Than Ever

You can put money into a trust now, or at your death (through a will, or a trust) for your children or grandchildren and make each one the trustee of his or her own trust. This gives them a fair amount of control without making the inheritance they receive subject to tax or subject to claim if their spouse or an unmarried partner leaves them. You've worked hard throughout your life to achieve this success. Protect your legacy!

What Should You Be Worried About?

So are you wary or concerned about a spouse remarrying? Or about a child who has inherited or received money from you, getting divorced and losing the gift or inheritance? Well, if you've seen or heard about those problems in your own or another family you're probably worried. Under the new rules of estate planning, you can now (with the right advice and planning) do much more to protect them without worrying about federal estate taxes. But you need a new plan – not old documents.

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NEW RULE # 2 - You can save even more in probate and estate costs by using a living trust

Over the years, many clients have considered using revocable living trusts to avoid probate fees. But, in Pennsylvania (unlike many other states such as Delaware or California with high probate fees and or difficult probate systems) the costs of probate are fairly light and the costs to do a trust are more expensive than the costs of a will.

In addition, there is extra work involved in doing a trust as you must (if it's to work properly to save on probate fees and for privacy) transfer all of your assets into the living trust and own them as the trustee rather than in your own name. For these reasons, many folks who consider a trust forgo the advantages and continue to do estate planning with wills.

As you progress in life, and build greater asset values, have a higher desire for privacy, and when you want to avoid conflicts and challenges to an estate plan, there comes a point when the trust makes economic sense and saves your heirs significant expenses. And, there are other reasons for a trust worth thinking about:

The Size of Your Estate

We actually recommend the trust rather than just a will when the estate of the husband and wife combined or the assets of a single client exceed \$3-4 million dollars. The probate and administrative fees then start to exceed the additional cost of a trust and make the trust more attractive.

Have a Home or Property in Another State?

Do you have one or more homes in a state other than Pennsylvania? The trust may be a great option to avoid multiple or "ancillary" probates that can be really expensive. In fact, the probate costs to transfer a vacation home in Florida can now exceed \$9,000. So, the costs of the trust (which can eliminate these fees) might be worth it.

Have You Reached an Age Where Someone Else is Managing Your Wealth?

Are you becoming elderly and want a child or third party to manage your funds? The trust is a great vehicle for that and can simplify matters.

Do You Want To Protect Your Estate From A Will Challenge?

Using a revocable trust can make your estate plan much harder and more expensive to challenge. And while a trust can be challenged, using a trust minimizes the likelihood of a successful attack. So, if you're disinheriting a child or grandchild, or have a complicated blended family, the trust may be well worth the additional expense.

Do You Want or Need a Bit More Privacy?

In these times of the internet and the NSA domestic spying programs it may seem like privacy is dead and that your personal and financial affairs are an open book. And it's true that keeping the details of your estate or trust secret is tough. But, a revocable or living trust can help.

It May be Time to Review Your Planning and to Change Over to a Living Trust Rather Than Just a Will

Start thinking about using a revocable trust rather than just a will. It may be time to spend the extra money to save your heirs time, and wealth later.

NEW RULE #3 - In Pennsylvania the courts have now imposed nursing home costs of a parent on a child... best practice?

Use irrevocable trusts (not revocable or living trusts) to protect assets from probate, and to reduce administrative costs, eliminate Pennsylvania inheritance taxes, and protect your spouse/heirs from the high costs of nursing home and long term care.

There is a common misperception that once you have placed your assets into a revocable or "Living Trust," (as opposed to an Irrevocable Trust) that those assets are then free from the claims of creditors, inheritance taxes, and that they cannot be taken away for nursing home care. Not true!

Only a carefully drafted IRREVOCABLE TRUST (created specifically for the purposes of protecting assets from taxation AND nursing home costs) can do that.

These irrevocable "Medicaid Trusts" or "Nursing Home Protection Trusts" are subject to many different rules and to "look

back provisions." However, when done properly, and well in advance of nursing home admission, they can protect hundreds of thousands of dollars, or more from taxation and/or nursing home costs.

Be Careful...There is Danger Lurking Here!

Because capital gains tax rates have recently soared, making sure to consider the step up in basis at the death of each spouse is a must in this planning. For that reason alone, it's important to retain legal and tax advisers who have experience in estate planning for the elderly and related to protection from nursing home and elder care costs.

What To Ask When Considering A Lawyer To Help You

So when evaluating a lawyer or law firm to assist you, make sure to ask them questions about their experience with estates like yours and how they deal with the new rules of estate planning when it comes to capital gains taxes and nursing home/elder law issues.

NEW RULE #4 - Estate planning (thanks to "portability" is now all about capital gains tax too!)

Prior to 2012, protecting assets from high federal estate taxes was the prime directive of estate planning. The 55% federal estate tax rate was to be avoided at all costs and paying some capital gains taxes (then at 15%) was a small price to pay for using the trusts we used to escape the federal estate tax.

Now, since many clients (those below \$5,430,000 dollars) can completely eliminate the tax AND as the capital gains tax rate has soared, doing planning to reduce or eliminate capital gains taxes while still protecting assets from a spouse remarrying, and/or a child getting divorced is much trickier.

The old approach may no longer work as well and may be harmful. It might result in higher taxes for your heirs. Couples who redo and update their documents and estate planning under the new law can fix these problems AND be a bit more relaxed about how assets are titled.

Why? Well the new law contains a thing called portability. This allows the surviving spouse to “inherit” the \$5,430,000.00 exemption of the deceased spouse. Portability is not automatic. The surviving spouse must make certain decisions and take certain actions within a short time of the death of the first spouse.

We have created a system to remind the spouse of these decisions and a process to help the surviving spouse to analyze the death tax and income tax issues under the new law. To get the advantage of this system, be sure to update your plan.

NEW RULE #5 - Changes in life, tax, trust and estate laws come faster than ever. If you haven't updated since 2009, it's time!

For example, just a few years ago a husband and wife HAD to have trusts (or trusts under their wills) to save federal estate taxes for their heirs. There was no choice.

To make those trusts work, each spouse had to have assets titled in his or her own name. You may remember your lawyer, accountant or financial adviser telling you to “keep separate assets.”

Those trusts (which you might still have) worked automatically. And, even if your situation had changed and the surviving spouse didn't want or no longer needed a trust, most, if not all of the deceased spouse's assets will go into the trust.

So, if you still have a will that uses those trusts, it may no longer make sense. These older wills and trusts may actually create a tax disadvantage rather than an advantage. (See new rule #4 above) Most married couples now need a plan with MORE flexibility not less.

What if You Are Single? Divorced? Unmarried?

Well there have been many changes that affect you dramatically as well. And whether or not you're married, new changes in state laws are also making estate planning a whole new game. Over the last few years, Pennsylvania has become a Prudent Investor Rule state and a Uniform Trust Act state. These changes have made the job of being a trustee and the liability associated with it more complicated than ever.

Most of our clients who want to avoid trips to the probate court (for their executors and trustees), are adding provisions such as additional and clear powers that can be used without court approval, trust protectors, clauses that require family disputes to be mediated rather than to go through expensive litigation and more.

How Long has it Been Since Your Last Will or Trust Review?

So even if it's been four or five years since your last update, the new rules of estate planning call for you to get an estate plan check-up. Many firms offer these for clients for free or at a low fixed charge and some firms offer them for potential clients who want to know if they need to make changes. Be sure to call and check in advance to see if your lawyer or law firm offers this type of free or fixed fee will and trust reviews.

How to Get an Update Estate Plan That Takes Advantage of the New Rules of Estate Planning

So much of what you may have heard about estate planning...perhaps almost everything...might now be wrong or obsolete.

If your last will, trust, power of attorney, medical power and/or living wills were done prior to 2013 (or almost certainly before 2009) then you may really need to change the approach you're taking.

This isn't the kind of thing that you'll do on your own. While hiring a lawyer isn't cheap, when done right, this type of planning can save your heirs tens to thousands of times the cost of the planning. It can protect your entire legacy to being lost if a spouse were to remarry or a child were to get divorced after inheriting from you.

Great planning under the new rules of estate planning can save your assets from a dramatic and often unnecessary loss due to the high cost of long term care and can balance your needs with those of a surviving spouse, children and grandchildren.

You've worked hard to build your wealth and your assets. Now take time to protect them for yourself and others.

What are the Steps You Need to Take?

- 1. Find and hire an experienced estate planning (and in some cases an elder law) adviser**
- 2. Get their estate planning questionnaire and fill it in before your appointment (it will get you thinking about all the right issues, your questions, and needs).**
- 3. Make sure that your appointment to review and update your old planning is either complimentary OR at a fixed cost (and that you know in advance what the range of fees might be).** *Insider's Secrets and Advice: Many clients want to know the exact cost before the meeting. That's often not possible because clients find that they can do things that they really value (even if they cost more). So just get an idea of the range of fees and at the end of the appointment ask for the cost of each option you're considering so that you know the benefits and costs of each.*
- 4. Verify that the law firm offers a FLAT FEE for the estate planning or elder law update process so that you'll know, in advance, what it costs.**
- 5. Ask if the law firm includes help and assistance (or at least advice) about how to structure your assets and beneficiary designations to make the planning really work to achieve your goals.**
- 6. Ask if they provide or charge for periodic reviews of your estate planning and what – if anything – they will charge to make recommendations about updates.** *Insider's Secrets and Advice: At our firm that charge is included in your planning and calls or conferences about updates are free of charge.*
- 7. Check to see if they provide a newsletter (or other notices of changes in the law that might alter your own estate plan) and what they charge for such newsletters/notices.**
- 8. Finish the process and get the planning signed and working for you and protecting your spouse or other heirs.**

An Invitation to Learn How To...

...Turn your existing but obsolete plan into a plan that's optimized under the new rules of estate planning.

...Protect your surviving spouse, and heirs from a divorce or lawsuit

...Minimize taxes and estate expenses

...Protect a vacation home, boat or other valuable assets

...Enhance your estate's privacy protection

Worried About Protecting Assets from Being Lost to Long Term and Elder Care?

Know that your planning is out of date (older than 2009)? Well, just reviewing this report should help you start the process and to start thinking about the new possibilities and the dangers of leaving an old plan in place. But obviously, there are many factors to consider (in this brief report) for each person's individualized and customized plan.

We just don't have enough space here to give you all of the issues, details, and solutions that you should be thinking about. At Unruh, Turner, Burke & Frees (UTBF), we believe that we have created a great system and resources for people of all levels of wealth.

How to Get This New and Useful Resource or to Get Your New Rules Planning Done for You

To help to make this easier and more effective for you, we have prepared an easy to use and to understand report of over 40 pages of ideas, strategies and tactics that you can use to create a powerful new and updated estate plan.

This is not the same old dry and outdated estate planning mumbo jumbo that you get (if you're lucky) from the Internet. This is our latest thinking and most recent review of the changing laws related to estate and trust planning.

To get that report: *Enhanced Estate Planning – The 2015 edition*, for FREE, just [click here](#) (to download it instantly) or call 888-573-9129 and ask that a copy be sent to you ASAP.

Who Needs This?

Whether married or single, with assets above or below \$5 million dollars, facing long term or nursing home care, or young and just getting started with houses, family, and kids, it's more important than ever to know your options and to get good planning in place.

Get Started on an Update!

So if you're ready to learn more, or to get it done right now, [click here](#) for the report, or call 888-573-9129 for a hard copy of the report or to **make an appointment for a complimentary will or estate plan review.**

Thank you for your time and enjoy the process of getting a state-of-the-art plan working for you and protecting your family!

To update your estate plan, call 610-933-8069 for a consultation.

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P.S. I've created a brand new video that shows you how to get the information that you need to do enhanced estate planning under the new rules. You can have it free [here](#) or call 610-933-8069.

P.P.S. We also have a great interview with Doug Kaune on Elder Law. View it now by clicking [here](#).

I've also prepared some additional materials for your reference:

- [BENEFICIARY DESIGNATION REPORT](#)
- [ESTATE PLANNING QUESTIONNAIRE](#)
- [ENHANCED ESTATE PLANNING REPORT](#)

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