

Elder Law Today



DURPRENANT & ENESKI
Estate, Tax, Medicaid and Disability Planning

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Important Tax Law Changes!

For the first 11 months and into December, the estates of wealthy individuals who died in 2010 were not expected to pay any federal estate tax, but that situation is about to change. When the President signed the new "Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010," ("TRUICJA", or "2010 Tax Relief Act") the federal estate tax springs back to life. For the next two years, the IRS will collect a 35% tax on all estates worth more than \$5 million. This article will provide a brief overview of the new law, and more importantly, what you should do about it.

Background

In 2001, Congress passed the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), the first of the two large legislative packages that contain most of what are now commonly referred to as the "Bush tax cuts." EGTRRA gradually lowered the maximum estate tax rate and substantially raised the estate exemption amount until 2010, when the federal estate tax was eliminated – for only one year. The repeal of the estate tax led to several well-publicized instances in which famous people died in 2010 leaving multibillion-dollar estates that would have passed to their heirs without paying so much as a penny in federal estate tax. (Interestingly, those heirs may still avoid estate taxes based on some provisions of TRUICJA.) When the estate tax disappeared, a new capital gains tax regime appeared, but again only for 2010. This state of mass confusion and uncertainty apparently prompted the 2010 lame duck Congress to quickly pass the 2010 Tax Relief Act.

New law

The new law brings back the estate tax, at least for the next two years. It also provides some interesting new provisions that provide estate planning opportunities for you. For 2010, the estate tax exemption amount is \$5 Million and the top rate is 35%. During 2011 and 2012, the top rate will be 35%. For 2011, the exemption amount will be \$5 million per individual (indexed for inflation after 2011). For people who died in 2010, their executors can choose tax rules to apply – the law as it existed in 2010 under the old law, or the new provisions imposed under TRUICJA. That's important because executors will have to pay close attention to determine whether it's better for heirs to pay higher capital gains tax later when property is resold, or whether it's better to subject the estate to the estate tax rules and save capital gains taxes later. For families who have owned small businesses, family farms, or have otherwise held investments for a long time, this might be a pretty difficult decision. Starting in January 2011, the **gift tax will be reunified with the estate tax**. This means that the \$5 million estate tax exemption will also be available for gifts made during life. This means that families have much more powerful gifting options available to them than in previous years. As a result, many families will help to provide for their children, grandchildren, or other loved ones during their lives – so they can witness the joy first-hand – rather than have to wait until their death to make gifts

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One of the other major features of TRUICJA is the new concept of “exemption portability.” This feature allows married couples to actually share their estate tax exemptions, making it easier for them to shelter up to \$10 million from taxes. There are some important nuances to portability that we have to plan for, but this feature adds a lot of planning flexibility for married couples.

How You Are Affected?

This law impacts you in several ways. First, we need to first make sure that your property will be divided according to *your* desires, and not dictated by Congress or by state law. For more than 50 years it has been common to use a written mathematical formula to divide the assets of a married couple when the first spouse dies to maximize estate tax savings. Likewise formulas have been used to provide funds for charitable causes and to benefit family and friends. With such increased exemptions impacting “formula clauses” in wills and revocable trusts, it is probably in your best interest to review your estate plan to be certain the plan will work as you intend.

Frankly, most estate plans should be reviewed every few years to make sure that the plan is not only consistent with the state of current law, but to also make sure that it reflects the family’s needs and circumstances. The new tax law provides a perfect reason for you to sit down and review your goals and make sure the important pieces of your plan still fit.

What Should You Do?

If you haven’t had your estate plan reviewed during the past three years, please call the office as soon as possible to schedule time to review your estate plan. We can then make some recommendations for you to consider and will discuss any changes that we believe are necessary for this law. The tax landscape changes fairly frequently, and it has changed dramatically over the past decade. Your estate plan should be as flexible as possible to make sure that your wishes are fulfilled from 2011 and beyond. As you may recall, we have previously advised you that you should revisit your plan periodically to make necessary adjustments, not only for the occasional law changes, but the often more common changed circumstances of you own life.

Is This All About Taxes?

Estate planning has much less to do with taxes and much more to do with making sure your wishes are known and honored. Families change, needs and interests change, and sometimes your plan should change accordingly. The changing tax landscape acts as a reminder that you should revisit your estate plan regularly

Mark Your Calendars For These Upcoming Events in February!
Estate Planning 101 presentations! Call 1-800-929-0491 to reserve your seat! You can
also register by going on-line to: www.myfamilyestateplanning.com

Is it Time to get your Ducks in a Row?

Tuesday, February 8th (code: Hyannis) 6:30pm-8:00pm
 Hyannis Cape Codder, 1225 Iyannough Road • Hyannis, MA 02601

Thursday, February 17th (code: Bay View) 6:30pm-8:00pm
 Bay View Assisted Living, 4380 North Main Street, Fall River, MA 02720

Thursday, February 24th (code: NBHCC) 6:30pm- 8:00pm
 New Bedford, Health Care Center, 221 Fitzgerald Drive, New Bedford, MA 02745

Here's What You'll Learn...

- How **living trusts** avoid probate, why wills don't and what good trust planning costs.
- How your Healthcare Proxy, Living Will and the new **HIPAA** release must work together.
- How to avoid death taxes, guarantee **IRA stretch outs** and plan for **disabled kids** or grandkids.
- How to "bulletproof" your children's and grandchildren's inheritances from their divorces, debts, lawsuits, medical expenses, irresponsible life styles and transfers out of your bloodline.
- How to **protect your home and savings** from \$8,300/month nursing home bills and **Medicaid** without buying long-term care insurance – even if you or a loved one is in a nursing home now.
- How qualified veterans and their spouses can get up to \$1949/month for at-home health care or assisted living costs from a little-known **VA benefit** for non-service connected disabilities.

Elder Law Attorneys Reveals the Legal Steps You Should Consider Right Now If Your
 Loved One Is In a Nursing Home Or About To Enter One Soon.



Sesame Chicken with Green Beans and Scallion Rice (Serves 4)

3 tablespoons vegetable oil
 1 cup white rice
 2 cups chicken broth
 1/2 pound green beans
 1 pound chicken breast, cutlets, or tenders, thinly sliced
 1 red bell pepper, seeded and thinly sliced
 3 tablespoons tamari (dark soy sauce)
 3 tablespoons honey
 1 tablespoon hot pepper sauce
 1 tablespoon Dijon mustard
 2 teaspoons sesame oil
 1 bunch scallions, finely chopped
 2 tablespoons sesame seeds, toasted



In a large saucepan, heat 1 tablespoon oil over medium-high heat. Add the rice; toast, stirring, for a minute or two. Add 1 1/2 cups chicken broth, lower the heat, cover and simmer until tender, about 17 minutes. In a medium skillet, bring 1 inch of water to a boil, add salt, add the green beans and cook for 2 minutes. Drain and rinse with cold water. In a large skillet, heat the remaining 2 tablespoons oil over high heat until rippling. Add the chicken and cook until golden, 3 to 4 minutes. Add the bell pepper and cook until just softened, 3 minutes. Add the green beans and cook, tossing, for 1 minute. In a bowl, mix together the tamari, honey, hot sauce, mustard and remaining 1/2 cup chicken broth. Pour the sauce over the chicken and vegetables, toss. Drizzle the sesame oil over the chicken. Stir the scallions into the rice and fluff with a fork. Serve the chicken over the rice and top with the sesame seeds.

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Thank YOU for recognizing our efforts by sending your friends & family!

Amedysis Home Health	Michael Surprenant
Atty. Jay Peabody	Community Nurse & Hospice
Atty. Raymond Quintin	NB Health Care Center
David Jorge	Robert & Pauline Plaud
David LeRoux	Robert & Helen Dumas
Elizabeth Linzee	Rod Komar
Gerry Hall	Sacred Heart Nursing Home
Mattapoissett COA	Walter Rusinoski

We invest 100% of our time & energy to delivering first-class service to our clients. As a result, our valued clients, partners, & friends refer their family, clients, friends & associates to us. We build strong, lifelong relationships, one person at a time!

IN-SERVICE TRAINING AVAILABLE AT YOUR OFFICE OR FACILITY ON TOPICS RELATED TO:

- ◆ Division of Assets
- ◆ Powers of Attorney
- ◆ Special Needs Planning
- ◆ Medicaid Planning
- ◆ Health Care Proxies

Call Maria Lawton at 508-717-2754
to set up a date & time!

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