By **Sharon L. Klein**

The State of the States: 2025

An update on key planning developments

State legislatures and courts have been very busy on several trust and estate-related fronts. Here's an update on some key planning developments across the country, through Nov. 30, 2025.

Transfer on Death Deeds

A transfer on death deed (TODD) is a legal mechanism that allows property owners to name a beneficiary to inherit real estate directly on the owner's death, bypassing the probate process. TODDs are popular for their efficiency, enabling straightforward transfers of property at death while allowing the owner to retain full control of the property during their lifetime, with flexibility to sell or mortgage the property or modify the beneficiary designation as they see fit. There are typically no gift tax consequences associated with a TODD because the deed doesn't transfer a present possessory interest.

As of 2025, at least 21 jurisdictions have adopted the Uniform Real Property Transfer on Death Act (URPTDA), which standardizes transfer on death procedures across jurisdictions: Alaska,[1] Delaware,[2] District of Columbia (D.C.),[3] Hawaii,[4] Illinois,[5] Maine,[6] Mississippi,[7] Montana,[8] Nebraska,[9] Nevada,[10] New Hampshire,[11] New Mexico,[12] New York,[13] North Dakota,[14] Oregon,[15] South Dakota,[16] Texas,[17] Utah,[18] Virginia,[19] Washington[20] and West Virginia.[21] Additionally, Connecticut,[22] Iowa,[23] New Jersey,[24] Rhode Island[25] and Tennessee[26] have introduced legislation to create their own state's version of URPTDA. The uniform law mandates the same standard of capacity as that required to make a will, the same formalities as any other recorded deed and the filing of the TODD with the county office where the property is located during the transferor's lifetime. Other states that haven't adopted URPTDA but allow for TODDs through their own legislation include Arizona,[27] Arkansas,[28] California,[29] Colorado,[30] Indiana,[31] Kansas,[32] Minnesota,[33] Missouri,[34] Ohio,[35] Oklahoma,[36] Wisconsin[37] and Wyoming.[38] Accordingly, at least 33 states have adopted some form of laws allowing for TODDs.

Here are the latest state developments:

Delaware. In September 2025, this state enacted URPTDA, which took effect on Dec. 5, 2025.[39] Delaware adds the requirement that two individuals witness the deed and incorporates insurance protection. For 60 days after the transferor's death, the beneficiary succeeds to the rights and obligations of the transferor under the policy, avoiding a coverage gap.

Minnesota. In April 2024, Minnesota enacted legislation providing substantial updates to its TODD laws.[40] The amended law took effect in August 2024. The changes clarify that the execution of a TODD doesn't affect the title of the property, but an insurable interest exists for the beneficiary of the property. The law also expands the validity of TODDs to situations in which the deed was recorded incorrectly or incompletely. Descendants of TODD beneficiaries will now receive the property if no successor beneficiary is listed in the deed.

New Hampshire. In 2024, New Hampshire enacted its version of URPTDA.[41] The deed must: (1) be titled "Transfer on Death Deed;" (2) state that the transfer will take place on the owner's death; (3) be

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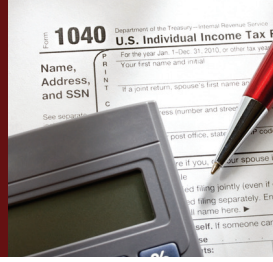


recorded with the county register of deeds before the owner's death or within 60 days after it's executed; and (4) be signed and notarized.

New York. New York adopted URPTDA,[42] effective as of July 2024. Ownership of the property will pass directly to a named beneficiary on the owner's death. To execute a TODD in New York, the owner must sign the deed in the presence of two witnesses and a notary.

North Carolina. North Carolina introduced legislation in 2023 to adopt URPTDA, but it died in 2024.[43] As of 2025, North Carolina hasn't reintroduced URPTDA.

As more states adopt TODD legislation, it's important to note that, while this mechanism may provide benefits for property owners looking to streamline estate planning and avoid probate, TODDs should be used with caution to avoid unintended complications with an estate plan. Because property transferred via TODD passes outside of a will, it could interfere with other estate-planning strategies, particularly if the property was intended to fund trusts or other estate-planning vehicles. Changes in family or financial circumstances, such as divorce, death of a beneficiary or updates to estate-planning documents, may create inconsistencies if the TODD isn't kept current. Further, TODDs often overlook estate tax apportionment issues. In many cases, a revocable trust may be a more comprehensive and sophisticated option.

Moreover, if property passes pursuant to a TODD or other automatic mechanism that doesn't reflect the decedent's intent at the time of death, the estate-planning attorney may be vulnerable to a malpractice action.

Attorney Liability Exposure

Can attorneys be subject to a malpractice action after a client's death? Whether a third-party beneficiary can maintain a malpractice action against an estate-planning attorney depends on state law. In a strict privity jurisdiction, only the client who suffered the malpractice can maintain an action against the attorney. Because negligence in the estate-planning context usually isn't discovered until after a client's death, in a strict privity jurisdiction, the cause of action typically dies with the client.

Very few states now follow the doctrine of strict privity. Most states permit malpractice actions to be brought by third-party beneficiaries or executors under the appropriate circumstances.

Here's a sampling of how different states approach privity:

Arizona. Arizona has recognized that a non-client of an attorney may, under some circumstances, have a cause of action for legal malpractice. In *Paradigm Insurance Co. v. Langerman Law Offices*,[44] the court applied the *Restatement (Third) of the Law Governing Lawyers* Section 51(3), in determining the duty owed by an attorney to a nonclient:

> [A] lawyer owes a duty of care ...
> (3) to a nonclient when and to the extent that:
> (a) the lawyer knows that a client intends as one of the primary objectives of the representation that the lawyer's services benefit the nonclient;
> (b) such a duty would not significantly impair the lawyer's performance of obligations to the client; and
> (c) the absence of such a duty would make enforcement of those obligations to the client unlikely.

California. In *Biakanja v. Irving*,[45] the California Supreme Court rejected the strict privity test for professional liability. The court held that the determination of whether the defendant will be held liable to a third person not in privity is a matter of policy and involves the balancing of various factors, including: (1) the extent to which the transaction was intended to affect the plaintiff; (2) the foreseeability of harm to him; (3) the degree of certainty that the plaintiff suffered injury; (4) the closeness of the connection between the defendant's conduct and the injury suffered; (5) the moral blame attached to the defendant's conduct; and (6) the policy of preventing future harm.

Connecticut. In *Krawczyk v. Stingle*,[46] the Connecticut Supreme Court noted that determining when attorneys should be held liable to parties with whom they aren't in privity is a question of public policy. In addressing this issue, the Supreme

Court observed that courts have looked principally to whether the primary or direct purpose of the transaction was to benefit the third party. Additional factors considered include: (1) the foreseeability of harm; (2) the proximity of the injury to the conduct complained of; (3) the policy of preventing future harm; and (4) the burden on the legal profession that would result from the imposition of liability.

The 2025 case of *Wisniewski v. Palermino*[47] changed Connecticut law. In that case, the Connecticut Supreme Court addressed an attorney's liability to beneficiaries of a decedent's will for failing to advise the decedent that his security account would pass pursuant to a beneficiary designation, which would need to be updated so the account's assets would pass through the decedent's estate in accordance with his will. Previously, Connecticut law limited attorney liability to third-party beneficiaries to errors in drafting or executing a will. However, the court found that public policy supports holding attorneys liable for failing to advise clients about the impact of beneficiary designations on estate plans, at least when a client informs an attorney of their intention to transfer assets through a will. The court stopped short of holding attorneys who give the appropriate advice responsible for ensuring that changes to a beneficiary designation are actually made.

Delaware. In Delaware, a beneficiary may sue a testator's attorney when a testator's intent is apparent on the face of a testamentary instrument and the bequest fails solely due to the scrivener's drafting. When the drafting is correct, yet the bequest fails for other reasons, the disappointed heir must allege facts that irrefutably lay the bequest's failure at the scrivener's door.[48]

Florida. In Florida, generally, a legal malpractice claim may be brought only by one who's in privity with the attorney. However, an exception permits an intended third-party beneficiary of the legal services to bring suit when "testamentary intent as expressed in the will … [was] frustrated by the attorney's negligence and as a direct result of such negligence the beneficiaries' legacy [was] lost or diminished."[49] Moreover, a successor personal representative can bring a malpractice claim against an attorney hired by their predecessor to provide services for estate administration. A Florida appellate court has held that the powers granted to an original personal representative transfer to the successor, including the right to sue on behalf of the estate.[50]

Hawaii. In Hawaii, a beneficiary may sue a testator's attorney for failing to draft an instrument that carries out the testator's intentions.[51]

Maryland. In Maryland, strict privity is required to maintain a legal malpractice claim against an attorney. In attorney malpractice cases, absent fraud, collusion or malice, an attorney isn't liable to a nonclient for harm caused by the attorney's negligence in the drafting of a will or planning an estate.[52] In *Bennett v. Gentile,*[53] the Maryland Supreme Court recently affirmed the state's adherence to the strict privity doctrine.

Michigan. In Michigan, a beneficiary may sue a testator's attorney for failing to draft an instrument that carries out the testator's intentions. However, Michigan courts have declined to allow plaintiffs to introduce extrinsic evidence to prove the testator's intent when the trust terms are clear and unambiguous.[54]

Missouri. In *Donahue v. Shughart, Thomson & Kilroy, P.C.*,[55] the Supreme Court of Missouri concluded that the first element of a legal malpractice action may be satisfied by establishing as a matter of fact either that an attorney-client relationship exists between the plaintiff and defendant, or an attorney-client relationship existed in which the attorney-defendant performed services specifically intended by the client to benefit the plaintiff. As a separate matter, the question of the legal duty of attorneys to non-clients will be determined by weighing the factors in a modified balancing test. The factors are: (1) the existence of a specific intent by the client that the purpose of the attorney's services was to benefit the plaintiffs; (2) the foreseeability of the harm to the plaintiffs as a result of the attorney's negligence; (3) the degree of certainty that the plaintiffs will suffer injury from attorney misconduct; (4) the closeness of connection between the attorney's conduct and the injury; (5) the policy of preventing future harm; and (6) the burden on the profession of recognizing the liability under the circumstances.

New Jersey. In New Jersey, courts have simplified the test for surmounting the privity requirement

through reliance, considering the following factors in determining whether the duty undertaken by an attorney extends to a third party not in privity with the attorney: (1) the extent to which the attorney/client relationship was intended to affect the plaintiff; (2) the foreseeability of reliance by the plaintiff and the harm it could thereby suffer; (3) the degree of certainty that plaintiff has been harmed; and (4) the need from a public policy standpoint of preventing future harm without unduly burdening the profession.[56]

New Mexico. In rejecting the privity of contract, New Mexico's Supreme Court[57] expressly referenced a California line of cases that use a multiple factor balancing test to determine liability to a third person. The factors are: (1) the extent to which the transaction was intended to affect the plaintiff; (2) the foreseeability of harm to him; (3) the degree of certainty that he suffered injury; (4) the closeness of the connection between the defendant's conduct and the injury suffered; and (5) the policy of preventing future harm.

New York. Until 2010, absent fraud, strict privity was required to maintain a legal malpractice claim against an estate-planning attorney in New York. The law changed with the Court of Appeals decision in *Estate of Saul Schneider v. Finmann*.[58]

In *Schneider*, the decedent's estate commenced a malpractice action against the decedent's estate-planning attorney, alleging that the attorney negligently advised the decedent to transfer, or failed to advise the decedent not to transfer, an insurance policy into his own name. The result was that the insurance proceeds were includible in the decedent's estate and subject to estate tax. With proper planning, the policy shouldn't have been in the decedent's name, and the proceeds should have passed to heirs free of estate tax.

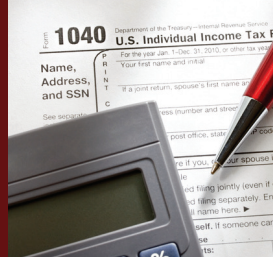
The New York Court of Appeals held that sufficient privity existed between the personal representative of the estate and the estate-planning attorney for the personal representative to maintain a malpractice claim against the attorney on the estate's behalf. According to the court, the strict privity rule leaves the estate with no recourse against an attorney who planned the estate negligently, and the estate essentially "stands in the shoes of a decedent," giving the estate the capacity to maintain the malpractice action.

The holding in *Schneider* allows malpractice actions to be brought after an individual's death. In *Schmidt v. Burner*,[59] for example, a decedent specifically stated in her estate-planning documents that she wished to disinherit one son and his descendants, and yet he remained a beneficiary of Totten trusts that passed by operation of law to him. The decedent's estate brought a malpractice action against the estate-planning attorneys for negligently failing to plan for the distribution of her assets according to her instructions, and the Appellate Division denied a summary motion to dismiss the suit. Because laypeople are often oblivious to the fact that asset titling can determine disposition and mistakenly assume that all assets will pass under their estate-planning documents, it's axiomatic that estate-planning attorneys verify how a client's assets are held so they can confirm asset disposition and tax apportionment preferences.

Ohio. In Ohio, because the personal representative assumes the right to prosecute any surviving cause of action after the decedent's death, the personal representative's right to sue succeeds to the decedent's right to sue. The personal representative, therefore, is in privity with the decedent. Consequently, a personal representative may bring a cause of action for legal malpractice on behalf of the estate for negligent estate planning that occurred during the decedent's lifetime, including when an attorney failed to ensure a TODD was updated to dovetail with a decedent's revised estate plan.[60]

South Carolina. In *Fabian v. Lindsay*,[61] the South Carolina Supreme Court held that beneficiaries of an existing will or estate-planning document may recover as third-party beneficiaries against an attorney whose drafting error defeats or diminishes the client's intent under legal malpractice or breach of contract theories. Recovery is limited to individuals who are named in the estate-planning document or otherwise identified by their status. The burden of proof for such claims is the clear and convincing standard.

Texas. In Texas, the ability to file a legal malpractice claim is generally viewed as a right exclusive to the client and typically can't be



assigned to another party. There's an exception if the lawyer should reasonably have expected that the non-client would believe the lawyer represented them, and the lawyer neglected to advise of the non-representation.[62]

Virginia. Effective July 1, 2025, Virginia amended its statute to explicitly clarify that an attorney engaged for estate planning owes no legal duty to an individual other than the client, unless there's a signed, written agreement between the client and attorney expressly conferring a benefit on a third party and specifically referencing the statute.[63]

Washington. Washington allows non-clients to bring a claim if the attorney owed them a duty. Determining whether a duty was owed involves weighing factors including the transaction's intended effect on the non-client, the foreseeability of harm, the degree of certainty the non-client suffered harm, the nexus between the attorney's conduct and the harm, policy considerations preventing future harm and the extent to which the legal profession would be unduly burdened by the finding of liability.[64]

West Virginia. In West Virginia, a direct, intended and specifically identifiable beneficiary may sue a testator's attorney who prepared the will when the testator's intent expressed in the will has been frustrated by negligence on the part of the attorney so that the beneficiaries' interests under the will are either lost or diminished.[65]

Perhaps the most important lesson in this arena is not to rely on a privity doctrine to avoid liability but for attorneys to be vigilant in their representations with clients, including verifying the titling of a client's assets to confirm the client's intent regarding asset disposition and tax apportionment.

Redefining the Modern Family

While several jurisdictions allow recognition of more than two legal parents for a single child,[66] legal parentage typically rests on intent, functional parenting or de facto parent status, as well as genetics or gestation. A recent New York case appears to be the first case in the country in which all three recognized parents had genetic or gestational ties to a child.

In *Matter of Baby D.K.N.*,[67] the Supreme Court of Kings County recognized three individuals as the legal parents of a child conceived through assisted reproductive technology (ART). E.D. was the egg donor, R.N. was the sperm provider and E.K. gestated the child. The three planned to conceive through ART and raise the child together in their shared home. Although E.D. was married to M.R., who was presumed a parent under the marital presumption statute and supported E.D.'s decision, M.R. expressly declined parentage.

The court granted the petition under New York Family Court Act Article 5-C (the Article), the purpose of which is to legally establish a child's relationship to their parents when the child is conceived either through ART or gestational surrogacy. Notably, the Article doesn't call for a best interest analysis, as other statutes require when adjudicating custodial or visitation rights. The Article doesn't specify the maximum number of intended parents. In relevant part, Section 581-102(k) broadly defines an intended

SPOTLIGHT

Whimsical

Chain Reaction by Alma Roberts sold for $2,794 at Swann Auction Galleries African American Art sale on Oct. 7, 2025, in New York City. Self-taught, Roberts picked up a paintbrush to start painting at the age of 62. Her abstract expressionist work is inspired by her insights on life and the issues that impact it.

parent as "an individual who manifests the intent to be legally bound as the parent of a child" who's conceived through ART.

The court found that all three petitioners were deemed "intended parents" and "participants" under the statute, and all three parents were named on the child's birth certificate.

The implications of this case are potentially far-reaching in demonstrating a path to multiparent recognition. The impact of a child's inheritance rights from multiple parents remains to be seen.

Who Gets the Pet in Divorce?

While all states allow pet trusts to recognize the important role pets play in the lives of many, what happens to pets if owners divorce? Historically, pets have been treated as chattels and dealt with in divorce like personal property. More recently, the approach in some states has evolved from a strict property analysis to one that considers the special relationship between pet and owner.[68]

However, a recent trend has taken the analysis of who gets the pet in divorce to new levels, with several states enacting "pet custody" legislation. In these states, courts will typically now be required to consider the well-being or best interests of the pet when awarding possession during divorce or separation proceedings. The "best interests" standard is what's generally used to determine child custody issues.

Even though prenuptial agreements (prenups) can't determine custody of children in divorce, it may be advisable for a couple to include pet care and ownership provisions in prenups, including who will be financially responsible and have primary ownership or visitation rights in the event of divorce. Even if those provisions aren't enforceable in every state and may not ultimately be determinative, they might at least provide evidence of the parties' intentions regarding a pet's care and well-being.

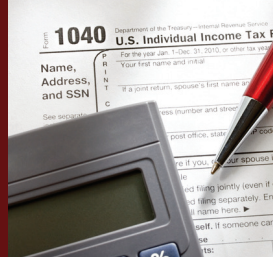
Here's the latest round-up of states that have legislation addressing pet ownership incident to divorce:

Alaska. In 2017, Alaska became the first state in the country to amend its divorce statutes to grant courts the authority to award sole or joint ownership of an animal,[69] taking into consideration the animal's well-being.[70] Additionally, when granting a final decree of dissolution, the court must find that written agreements between spouses concerning ownership or joint ownership of an animal take into account the animal's well-being.[71]

California. California's statute specifically addresses the care and ownership of pet animals in the division of community property during a divorce or legal separation. "Pet animal" is defined as any animal that's community property and kept as a household pet.[72] If requested to do so by a party, the court may enter an order, prior to final determination, to require a party to care for the pet animal during the proceedings for dissolution of marriage or legal separation.[73] If requested to do so by a party, courts may assign sole or joint ownership of a pet animal, taking into consideration the "care" of the pet animal,[74] which is defined to include preventing acts of harm or cruelty and providing adequate food, water, veterinary care and safe and protected shelter.[75]

D.C. The Animal Care and Control Omnibus Act of 2022 became law in D.C. in 2023.[76] The most noteworthy change is that pets are treated equitably in the event of a divorce, albeit still under D.C.'s property statute. D.C. now applies a "best interest" standard to pets when evaluating custody after divorce, similar to the approaches in Alaska and California. The analysis of what's in the best interest of the pet is similar to the standard applied to custody of minor children.[77]

Illinois. If a court in this state finds that a companion animal of the parties is a marital asset, it must allocate the sole or joint ownership of and responsibility for the animal. In issuing an order, the court is required to consider the well-being of the companion animal.[78] To promote amicable settlement between ex-spouses on the dissolution of their marriage, the parties may agree to dispose of property, provide for maintenance, support, parental responsibility and support of their children and, as of 2018, account for companion animals in divorce.[79] Accordingly, an agreement between the parties can allocate sole or joint ownership of or responsibility for companion animals, including dividing up the time each spends with the animal.[80] The terms of an agreement, except those providing for the support



and allocating parental responsibility of children, are binding unless the court finds that the agreement is unconscionable.

Maine. Effective Oct. 18, 2021, this state expanded its disposition of property in its divorce statute to include companion animals. A companion animal is defined as an animal kept primarily for companionship rather than as a working animal, service animal or farm animal kept for profit.[81] The court must award ownership of the companion animal to only one party after considering all relevant factors, including:

A. the well-being and basic daily needs of the companion animal;
B. the amount of time each party has spent with the animal during the marriage tending to nutritional, grooming, physical and medical needs;
C. the ability of a party to continue to own, support and provide adequate care for the companion animal;
D. the emotional attachment of a party to the animal;
E. the emotional attachment of any child in the household to the companion animal and the benefit to the child of the companion animal's remaining in the primary residence of the child;
F. any domestic violence between the parties or in the household of the parties; and
G. any history of animal abuse or other unsafe conditions for the companion animal.[82]

Massachusetts. Although pets are generally treated as personal property in this state, in *Lyman v. Lanser*, the court enforced a pre-separation oral agreement between an unmarried couple to share custody of a dog. The court found that the agreement was sufficient to be enforceable and that specific performance was appropriate, noting that monetary damages were inadequate. The court recognized that a pet's value extends beyond its market price, encompassing the companionship it provides.[83]

In 2025, Massachusetts introduced a bill[84] that would require courts to consider the best interests of the pet when awarding custody in divorce proceedings. Courts would be required to consider factors including caregiving history, emotional attachment and any history of abuse or neglect.

New Hampshire. This state's property settlement statute was amended in 2019 to specifically provide that tangible property includes animals. As part of a property settlement in the dissolution of a marriage, courts must address the care and ownership of the parties' animals, taking into consideration the animals' well-being.[85] Prior to the amendment, courts had no legislative framework to determine who should receive the pet in divorce beyond the standards used to divide property like furniture.

Effective Jan. 1, 2023, this state has amended its statute to provide that the court may review and modify a previously agreed-on property settlement only as it pertains to the parties' animals.[86]

New York. This state enacted pet custody legislation in 2021. New York courts must now consider the best interests of "companion animals" when awarding possession during divorce or separation proceedings.[87] Companion animals include dogs, cats and other domesticated animals.[88] The "best interests" standard is what's used to determine child custody issues. In *Connolly v. Nina*,[89] the court applied a "best for all concerned" standard, balancing a strict property analysis with the more extensive interests analysis involved in child custody cases. In awarding custody to the dogs' caretaker, rather than the dogs' owner, the court weighed factors including financial circumstances, competing living environments, opportunities for exercise and socialization, access to outdoor activities, veterinary care and necessary medical supplies and why each party would benefit from having the dogs in their life. According to the court, dogs are now treated as members of the family under modern, enlightened jurisprudence and, no less than humans, deserve a safe, stable, stress-free home environment.

Pennsylvania. Currently, the law in Pennsylvania treats pets more like other chattels and personal property. In *Clever v. Clever*,[90] the court overturned the order directing the sale of the divorced couple's dogs, emphasizing that pets, like other personal property, must be addressed during the equitable distribution proceedings in a divorce. This decision illustrates Pennsylvania's traditional property law approach in pet disputes.

In 2025, the Pennsylvania House passed a bill[91] that reclassifies pets as "living beings that are generally

regarded as cherished family members" rather than property. The legislation would require courts to consider factors when determining possession, including whether the animal was acquired before or during the marriage, who's responsible for daily care, veterinary care and social interaction and who has greater financial ability to support the animal.

Rhode Island. This state enacted legislation in 2024,[92] requiring courts to consider the best interest of the animal when awarding sole or joint custody in a divorce or separation proceeding. The court must consider various factors, including who first owned the animal, who provides daily care and spends more time with the animal, which living arrangement is in the animal's best interests, the children's attachment to the animal and their current living arrangements.

In *Bunker v. Boyd*,[93] the Rhode Island Supreme Court adjudicated a dispute between unmarried partners regarding ownership of their dog before the pet custody legislation was enacted. The court noted that there was case law in Rhode Island where pets were treated as property, as well as case law where the "best interest of the pet" standard was considered.

"So as to not be placed in the doghouse and not wanting to bark up the wrong tree," the court analyzed the issues under both a traditional property and best interest of the pet standard.[94] The traditional analysis focused on documentation of the adoption and payment of adoption and veterinary fees. The best interest standard in *Bunker* followed factors outlined in New York case law,[95] including the involvement of each party in the dog's life, the availability and willingness to care for the dog, involvement in veterinary care, the quality of the home environment for the dog, the care and affection towards the dog and general ability and fitness to take care of the dog. After considering both analyses, the court awarded the former girlfriend full custody of the dog. For non-marital relationships, because Rhode Island's new statute regarding pet custody in divorce doesn't strictly apply, parties will likely rely on the *Bunker* analysis of ownership, with best interests woven in.

Estate and Gift Tax

On July 4, 2025, the One Big Beautiful Bill Act (the OBBBA)[96] was enacted, eliminating the 2017 Tax Cut and Job Act's 2026 sunset provision, which would have reduced the federal estate, gift and generation-skipping transfer tax exemption to approximately $7 million per person in 2026. The OBBBA increases the federal lifetime exemption to $15 million per person (or $30 million for married couples) starting Jan. 1, 2026, indexed for inflation. Whether these changes will indeed be permanent is unknown, so it's prudent for clients to consider using their enhanced exemption amounts, particularly because several states have estate/gift tax exemptions that aren't tied to the federal amount, making coordinated planning for state and federal-level taxes key. Thirteen jurisdictions (Connecticut,[97] D.C.,[98] Hawaii,[99] Illinois,[100] Maine,[101] Maryland,[102] Massachusetts,[103] Minnesota,[104] New York,[105] Oregon,[106] Rhode Island,[107] Vermont[108] and Washington[109]) impose a state-level estate tax, and six (Iowa,[110] Kentucky,[111] Maryland,[112] Nebraska,[113] New Jersey[114] and Pennsylvania[115]) impose an inheritance tax, including one state (Maryland) that imposes both sets of taxes.

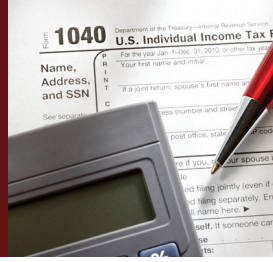
Here's an overview of the latest jurisdiction-level taxes:

Connecticut. Connecticut's estate and gift tax exemption is equal to the federal amount.[116] The state imposes an estate tax of 12% on the excess above the federal amount.[117] There's a $15 million cap on an individual's estate and gift tax liability.

Connecticut remains the only jurisdiction in the country with a true gift tax. Importantly for planning purposes, Connecticut doesn't impose a tax on gifts of tangible or real property located outside the state, so it's possible to make gifts with that type of out-of-state property without triggering a Connecticut gift tax.[118]

For individuals dying on or after Jan. 1, 2021, the estate tax may be reduced by up to half of the amount a decedent invested in certain private funds or funds through Connecticut Innovations for 10 years or more. This reduction can't exceed $5 million.[119]

D.C. The Estate Tax Adjustment Amendment Act of 2020[120] reduced D.C.'s estate tax exemption to $4 million for individuals dying on or after Jan. 1, 2021.[121] Beginning Jan. 1, 2022, that exemption amount increases annually by cost-of-living adjustments. The 2024 exemption amount



was $4,715,600. In 2025, the exemption amount rose to $4,873,200.[122]

Hawaii. In 2018, Hawaii enacted laws reducing the Hawaiian estate tax exemption amount to $5 million, indexed for inflation. The exemption rose to $5.49 million in 2024 and remained unchanged in 2025.[123] In 2022, the state increased its estate tax rate on estates exceeding $10 million to 20%.[124] Hawaii's estate tax exemption is portable between spouses.

Illinois. This state increased its exemption amount to $4 million in 2013. It remained $4 million in 2024 and in 2025.[125]

Iowa. In 2021, Iowa enacted legislation[126] to repeal its inheritance tax, which ranges from 0% to 15% depending on the relationship between the decedent and the beneficiary. The tax was reduced by 20% a year beginning with individuals dying in 2021 and culminating in full repeal for individuals dying on or after Jan. 1, 2025.

Kentucky. Kentucky imposes an inheritance tax with a top rate of 16%. Beneficiaries are grouped into classes based on their relation to the decedent, with more distant relatives paying higher rates on inherited assets.[127]

Maine. Maine's estate tax exemption for individuals dying after Jan. 1, 2018 is $5.6 million, indexed for inflation.[128] The exemption was $6.8 million in 2024 and rose to $7 million in 2025.[129]

Maryland. In 2019, this state enacted a law providing that in 2019 and subsequent years, the Maryland estate tax exemption amount will be capped at $5 million and won't be adjusted for inflation.[130] Maryland's estate tax exemption is portable between spouses. A bill to conform Maryland's estate tax exemption with the federal estate tax exemption failed to pass in 2025.[131]

Massachusetts. In 2023, this state doubled the estate tax exemption from $1 million to $2 million for individuals dying on or after Jan. 1, 2023[132] and ended the "cliff" approach of taxing in full those estates that exceeded the exemption. Now, only the value of the estate above the exemption amount is taxable. As of 2025, the exemption remains at $2 million and isn't indexed for inflation.[133]

Minnesota. In 2017, Minnesota enacted legislation that increased the estate tax exemption amount incrementally, reaching a maximum of $3 million for 2020 and thereafter.[134] Accordingly, Minnesota's estate tax exemption remained unchanged in 2025.[135]

Nebraska. In 2022, this state enacted legislation[136] to reduce the inheritance tax for individuals dying on or after Jan. 1, 2023. As of 2025, Nebraska imposes an inheritance tax with a maximum rate of 15%, depending on the heir's relationship to the decedent. Spouses are exempt.[137]

New Jersey. New Jersey imposes an inheritance tax at a top rate of 16%. Rates are determined with reference to how closely related the beneficiary is to the decedent.[138]

New York. Effective for those dying on or after Jan. 1, 2019, New York's exemption amount is linked to the 2010 federal exemption amount of $5 million, indexed for inflation.[139] In 2024, New York's exemption amount was $6.94 million, rising to $7.16 million in 2025.[140] However, the New York estate tax regime maintains its built-in "cliff."[141] Only estates that are less than or equal to the exemption amount on the date of death will pay no tax; for those estates that are between 100% and 105% of the exemption amount, there's a rapid phase-out of the exemption; and those estates that exceed 105% of the exemption amount will lose the benefit of the exemption amount entirely and be subject to tax from dollar one.

While New York doesn't impose a current gift tax, the New York gross estate of a deceased resident is increased by the amount of any taxable gift made within three years of death, if the decedent was a New York resident at the time the gift was made and at the time of death.[142] Originally set to expire on Dec. 31, 2025, this add-back rule was extended through the end of 2031 in New York's 2025-2026 Executive Budget. The provision is problematic because the New York estate tax attributable to assets added back isn't deductible for federal estate tax purposes because only state death taxes paid on assets "includible in the federal gross estate" qualify for the deduction (Internal Revenue Code Section 2058). These gifts, artificially added back for New York estate tax computation purposes, aren't includible in the federal gross estate. Ironically, this left the estates of individuals who died within three years of gifting in a worse position than if they had done no planning: They were potentially subject to top 16% New York estate taxes, yet if they died owning the

assets, they would be entitled to a federal deduction for state death taxes, which could effectively reduce the top rate to 9.6% (16% New York tax deductible against a top 40% federal estate tax rate = 9.6%). To address this problem, the 2025-2026 Executive Budget classifies the New York estate tax attributable to the add-back as a debt of the decedent under IRC Section 2053(a)(3), with the intent of making it a deductible debt from the federal gross estate.

Out-of-state real and tangible property won't trigger a New York estate tax for New York residents. Nonresidents who own real or tangible property located in New York won't owe any New York estate tax if the value of their New York situs property is below the New York exemption amount at the date of death.

Oregon. Since 2011, Oregon has an exemption amount of $1 million.[143] Bills introduced in 2025 to increase the exemption died.[144]

Pennsylvania. Pennsylvania imposes an inheritance tax at a top rate of 15%. Rates are determined with reference to the relation of the beneficiary to the decedent. The state allows a 5% discount if the inheritance tax is paid within three months of the decedent's death.[145]

Rhode Island. Pursuant to a law signed in June 2014, this state increased its estate tax exemption amount to $1.5 million in 2015, indexed for inflation.[146] For 2024, the estate tax exemption amount increased to $1,774,583. For individuals dying on or after Jan. 1, 2025, the estate tax exemption amount is $1,802,431.[147]

Vermont. The state enacted a law in 2019 that increased the state exemption amount to $5 million in 2021 and thereafter.[148] Vermont imposes a flat rate of 16% on the excess of $5 million.[149]

Washington. Until 2024, Washington's estate tax exemption was set at $2 million, indexed for inflation, reaching $2.193 million that year.[150] In 2025, this state increased the estate tax exemption to $3 million for individuals dying on or after July 1, 2025, indexed for inflation.[151]

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Endnotes

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2. Del. Code Ann. tit. 25, Sections 201-221 (2025).
3. D.C. Code Sections 19-604.01–19-604.19 (2025).
4. Haw. Rev. Stat. Sections 527-1–527-17 (2025).
5. 755 Ill, Comp. Stat. 27/1–27/95 (2025).
6. Me. Rev. Stat. Ann. tit. 18-C, Sections 6-401–6-420 (2025).
7. Miss. Code. Ann. Sections 91-27-1–91-27-37 (2025).
8. Mont. Code. Ann. Sections 72-6-401–72-6-418 (2023).
9. Neb. Rev. Stat. Sections 76-3401–76-3423 (2025).
10. Nev. Rev. Stat. Sections 111.655–111.699 (2024).
11. N.H. Rev. Stat. Ann. Sections 563-D:1-22 (2024).
12. N.M. Stat. Ann. Sections 45-6-401 to 417 (2024).
13. N.Y. Real Prop. Law Section 424 (2024).
14. N.D. Cent. Code Sections 30.1-32.1-01 to 14 (2024).
15. Or. Rev. Stat. Sections 93.948-93.990 (2024).
16. S.D. Codified Laws Section 29A-6-408.
17. Tex. Est. Code Ann. Sections 114.001-106.
18. Code Ann. Sections 75-6-401 to 419.
19. Va. Code Ann. Sections 64.2-621 to 638.
20. Wash. Rev. Code Sections 64.80.010-904.
21. W. Va. Code Sections 36-23-1 to 17.
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27. Ariz. Rev. Stat. Ann. Section 33-405.
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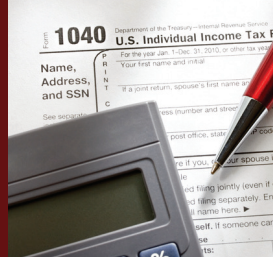

36. Okla. Stat. tit. 58, Section 1252.
37. Wis. Stat. Section 705.15.
38. Wyo. Stat. Ann. Section 2-18-103 (2025).
39. DE. H.B. 147.
40. MN HF3925*/SF3846 (2024).
41. N.H. Rev. Stat. Ann. Sections 563-D:19-20 (2024).
42. N.Y. Real Prop. Law Section 424.
43. NC S160.
44. *Paradigm Insurance Co. v. Langerman Law Offices*, 24 P.3d 593 (2001); *see also Kremser v. Quarles & Brady, L.L.P.*, 36 P.3d 761, 764 (citing *Paradigm Ins. Co.* at pp. 600-01); *Napier v. Bertram*, 954 P.2d 1389, 1393 (1998).
45. *Biakanja v. Irving*, 320 P.2d 16 (1958).
46. *Krawczyk v. Stingle*, 208 Conn. 239 (1988).
47. *Wisniewski v. Palermino,* 351 Conn. 390 (2025).
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52. *Noble v. Bruce*, 709 A.2d 1264 (1998).
53. *Bennett v. Gentile*, 321 A.3d 34 (2024).
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55. *Donahue v. Shughart, Thomas & Kilrov, P.C.*, 900 S.W.2d 624 (Mo. 1995).
56. *Rathblott v. Levin*, 697 F. Supp. 817 (D.N.J. 1988); *Varelli v. White*, No. A-4675-16T3, 2019 WL 3229679, (N.J. Super. Ct. App. Div. July 18, 2019), *cert. denied*, 220 A.3d 986 (2019) and *cert. denied*, 220 A.3d 991 (2019).
57. *Wisdom v. Neal*, 568 F. Supp. 4 (D.N.M. 1982).
58. *Estate of Schneider v. Finmann*, 933 N.E.2d 718 (2010).
59. *Schmidt v. Burner*, 159 N.Y.S.3d 899 (N.Y. App. Div. 2022).
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61. *Fabian v. Lindsay*, 765 S.E.2d 132 (2014).
62. *Burnap v. Linnartz*, 914 S.W.2d 142, 148-149 (Tex. App. San Antonio 1995, writ denied).
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64. *Trask v. Butler*, 872 P.2d 1080 (1994).
65. *Calvert v. Scharf*, 619 S.E.2d 197 (2005).
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95. *L.B. v. C.C.B.*, 175 N.Y.S.3d 705, 711 (2022) (Sup. Ct., Kings County).
96. One Big Beautiful Bill Act, Pub. L. No. 119-21, 139 Stat. 452 (2025).
97. Conn. Gen. Stat. Section 12-391(g).
98. D.C. Code Ann. Section 47-3701.
99. Haw. Rev. Stat. Section 236E-8.
100. 35 Ill. Comp. Stat. Ann. Section 405/3.
101. Me. Rev. Stat. Ann. tit. 36, Sections 4102 and 4119.
102. Md. Code Ann., Tax-Gen. Section 7-309(b)(3)(i).
103. Mass. Gen. Laws Ann. Ch. 65C, Section 2A.
104. Minn. Stat. Ann. Section 291.016.
105. N.Y. Tax Law Section 952(c)(2)(B).
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107. R.I. Gen. Laws Section 44-22-1.1.

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110. Iowa Code Ann. Section 450.2.
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