

FOCUS

Trusts and Estates Newsletter



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From the Chair

Recently, the Michigan Supreme Court, in *Resort Properties Co-Operative v. Township of Waterloo*, clarified when transfers of ownership of an entity results in an uncapping of the taxable value of real property owned by the entity. It held that transferring more than 50% of the ownership interest is a "transfer of ownership" for purposes of the uncapping rules, and that all transfers are considered for purposes of meeting the 50% threshold. If you own property through an LLC or corporation, please contact your Warner Trusts and Estates attorney to determine how *Resort Properties* may affect you and whether planning options are available to avoid uncapping.

Estate Planning and the "Big Beautiful Bill"

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On July 4, 2025, President Trump signed the "One Big Beautiful Bill" Act (OBBBA) introducing major changes affecting high-net-worth individuals, family businesses and family offices. The bill impacted a variety of tax areas, including charitable giving and estate planning. From an estate-planning perspective, the most significant change is the increased estate and gift tax "exemption" amount.

Estate and Gift Tax Planning

The exemption was set to revert to its pre-Tax Cuts and Jobs Act (TCJA) amount of \$5 million (indexed for inflation) on January 1, 2026. OBBBA, however, permanently increases the estate and gift tax exemptions to \$15 million (indexed), or \$30 million for married couples. This increased exemption also applies to the generation-skipping transfer tax exemption. Although it is technically permanent, all tax laws may be, and often are, changed by future acts of Congress. In the meantime, this expansion enhances estate planning opportunities and increases the amount of assets that may be transferred to future generations. This is particularly true for high-net-worth clients whose assets exceed the exemption amounts. This "excess" is taxed at a hefty 40% tax rate upon death, and often the estate tax check is the largest check a family will write. But even if estate taxes are not a concern right now due to

the large exemption amounts, additional income tax planning should be considered.

Income Tax Planning

Assets included in a decedent's gross estate for federal estate tax purposes generally receive a basis adjustment to fair market value at death. Traditionally, taxpayers had to choose between minimizing income tax (by ensuring assets are included in the gross estate) or minimizing estate and gift tax (by ensuring assets are excluded from the gross estate).

With the new exemption amount, most taxpayers will now face little or no estate tax. As a result, many may prefer strategies to secure the basis step-up. For example, a trust designed to exclude assets from a beneficiary's estate could instead be modified or "decanted" so that up to \$15 million of appreciated assets are includable in the beneficiary's estate without triggering estate tax. This adjustment could eliminate substantial built-in gains and yield significant income tax savings without any estate tax liability.

If you have questions about the OBBBA's impact on your estate plan, how the increased exemption might help reduce or eliminate income, estate, gift and GST taxes, contact your Warner estate planning attorney, or Jennifer Remondino at jremondino@wnj.com.

Teaching Beneficiaries How to Manage Inherited Wealth

Raquel Sportel | rsportel@wnj.com



Most people know the proverb “shirtsleeves to shirtsleeves in three generations.” It describes a cycle: The first generation builds wealth through hard work, the second enjoys it and the third squanders it, returning the family to financial scarcity.

Is this always true? Maybe not, but many wealth creators worry what they've built could hinder rather than help their descendants. They fear raising “trust fund babies” — entitled, dependent or wasteful. At its core, the concern is: How can I ensure my wealth benefits rather than harms my children?

Driven by these fears, many parents hide their wealth or design restrictive trusts accessible only for necessities, with decisions controlled by strict overseers. In extreme cases, these plans attempt to exert control “from the grave.” Such arrangements may foster resentment, damage family harmony and make beneficiaries feel untrusted. Some even see their inherited wealth more like a burden than a benefit.

Communication and Trust

A successful estate plan requires addressing family dynamics and preparing beneficiaries for inheritance. Wealth creators should create communication and trust with beneficiaries and potential fiduciaries.

- **Engage Your Beneficiaries.** They don't need to know every detail, but involving them helps them understand your values and motivations, reduces resentment and discourages disputes.
- **Be Transparent.** If you have concerns, discuss them openly while you can mentor your heirs. Talk about taxes, asset protection and financial goals with them. They are far more likely to respect these concerns coming from you rather than from an advisor after you are gone.

- **Educate.** Give beneficiaries resources to learn estate planning basics, trust administration or family business operations, so they understand their role in preserving generational wealth and promoting the family's legacy.

Preparing Beneficiaries

Clients often worry their heirs aren't prepared for inheritance. Interestingly, many beneficiaries feel the same. This overlap creates a valuable opportunity: Actively help heirs build the skills they need.

Ways to prepare beneficiaries include:

- **Encourage Open Dialogue.** Talk about expectations, goals and emotions surrounding wealth. Help them see inheritance can enhance quality of life more than just material gain.
- **Promote Financial Literacy.** Teach skills in budgeting, investing and philanthropy, aligned with your family values.
- **Foster Learning and Personal Growth.** Encourage education, training and experience to prepare heirs for roles as a beneficiary, trustee, shareholder, director, officer or employee of a family business, charitable organization or family office.
- **Introduce Responsibility Gradually.** Let heirs handle small financial tasks or charitable projects, increasing responsibility over time. This builds confidence and appreciation for stewardship.

Striking the Right Balance

The key is balancing flexibility and responsibility. A successful estate plan focuses on relationships and family dynamics. If you have concerns about your family's preparedness to manage inherited wealth, contact your Warner estate planning attorney, or Raquel Sportel at rsportel@wnj.com.

Attorney Spotlight

Raquel Sportel

What kind of law do you practice and what do you enjoy about it?

I am a trusts and estates attorney who provides personalized estate planning advice to families and individuals. I help clients plan for their vision of transfer of assets. I work with clients throughout different phases of their lives, understanding that circumstances such as family dynamics and finances can prompt discussion, require counsel and lead to changes in one's estate plan.

Tell us about your background and why you decided to become an attorney.

From a young age, I was drawn to the law; it was a deeply personal calling. Growing up, I witnessed a range of family dynamics, both within my own life and through those around me. As an intuitive and observant person, I was intrigued by how families function, communicate and sometimes struggle to find common ground. This curiosity, paired with a desire to help people navigate complex relationships, inspired my decision to pursue law and work with families. Trusts and estates law is a natural fit for both my skills and personality. It is a true pleasure getting to know my clients. I take pride and hold closely the relationships I've built over the years.

Why did you want to work for Warner?

I chose to build my career at Warner because it's home to the best estate planning team in Michigan. Our attorneys are among the most experienced and reputable in the profession, with many elected to the American College of Trust and Estate Counsel (ACTEC) or ranked in Chambers High Net Worth Guide, recognitions reserved for those demonstrating the highest level of integrity, commitment and expertise.



Raquel with her husband, Nathan, and children, Serena and Silas.

What do you think people would be surprised to learn about you?

Though I'm very comfortable and enjoy interacting with everyone, I'm actually quite introverted, which I feel would surprise most people. At the end of each day, I like to retreat to quiet places such as my gardens to recharge. I'm a processor, and it's crucial for me to have that alone time so I can be my best version of myself for my clients, family and friends.

What are your hobbies and interests?

When I'm not at the office, I'm slowing down and enjoying my family, including my husband, Nathan, our daughter, Serena, our son, Silas, and our Boston Terrier named Calvin. I enjoy all kinds of outdoor activities and as a recent(ish) transplant to the state, I'm enjoying experiencing everything Michigan has to offer!

Protect Your Children and Retirement Assets

Sara Nicholson (left) | snicholson@wnj.com
Juliette Peterson (right) | jpeterson@wnj.com



Many young couples with a house, bank accounts and some retirement savings often assume all they need is “a super simple estate plan, nothing fancy.”

If only! Unfortunately, most new parents fail to consider the complexities their young children introduce to seemingly simple assets. This is particularly true of retirement accounts.

Retirement Accounts Refresher

For a traditional retirement account (like an individual retirement account (IRA) or 401(k) plan), an individual makes contributions to the account using pre-tax dollars, which are not taxed until withdrawn. For a Roth retirement account, an individual makes contributions to the account using dollars that have already been taxed. Roth accounts accumulate and are withdrawn tax-free.

Under a traditional account, once the owner attains age 73 (in 2025), the owner must begin taking Required Minimum Distributions (RMDs). These RMDs are included in the owner’s gross income for the year and are taxed at ordinary federal income tax rates. Roth accounts do not have RMDs until after death.

Retirement Accounts Upon Death

The rules for determining RMDs after the owner’s death are incredibly complex and depend on numerous factors including type of plan, whether the owner had begun receiving RMDs and importantly, the identity of the account beneficiary — that is, does the beneficiary qualify as a designated beneficiary, an eligible designated beneficiary or neither.

- **Designated beneficiaries (DBs).** A DB is an individual named by the owner (or if none, the individuals named as beneficiaries under the default rules of the plan). A DB generally must take RMDs over a 10-year period.

- **Eligible designated beneficiaries (EDBs).** An EDB is a limited subset of designated beneficiaries that includes the owner’s surviving spouse, the owner’s minor child (defined as under age 21), an individual who is disabled or chronically ill or an individual who is not more than 10 years younger than the owner. An EDB may generally take the RMDs over their life expectancy, maximizing tax deferral.
- **Neither.** Some beneficiaries, including estates, charities and some trusts, are neither a DB nor an EDB. A beneficiary who is neither generally must take RMDs over a five-year period.

A trust must meet very specific requirements to qualify as a see-through trust that looks through to the beneficiaries to determine qualification as a DB or EDB.

Consequences of Non-Qualified Trust

If a trust’s beneficiaries qualify as neither DBs nor EDBs, what’s the problem? Imagine a young couple dies and all their assets are funded to a family trust for their minor children’s benefit:

- The retirement account must be distributed (and taxed) in full within five years of the account owner’s death, or for many employer plans such as 401(k) or 403(b) plans, within a year or less of the owner’s death.
- The distributions are taxable as ordinary income, not the lesser capital gains tax bracket.
- Unless the distributions are immediately passed through to the trust beneficiary, they will be taxed under the compressed trust income tax brackets (which reach the top marginal rate very quickly).

For adult beneficiaries, the simplest approach is to name the individuals as the beneficiaries, not the trust. Minor beneficiaries, however, legally cannot accept assets without a custodial account or, worse yet, a court-appointed conservator. Some beneficiaries may technically be adults but may not yet be mature enough to handle the funds responsibly, hence the need for a trust agreement.

See-Through Trusts

But there's hope! A properly structured see-through trust can "look through" the trust to its beneficiaries to determine the correct RMD calculations.

There are three basic types of "see-through" trusts:

- **Conduit** trusts require the trustee to immediately distribute any IRA withdrawal to the trust beneficiary. Where minor beneficiaries are involved, this can defeat the purpose of a trust if the amounts exceed the amounts paid directly to providers for the beneficiary's needs.
- **Accumulation** trusts permit the trustee to retain IRA distributions in the trust — for instance, to distribute when the beneficiary attains a certain age. This requires a more detailed analysis of potential future trust beneficiaries and can be less certain under current guidance.
- **Age 31 Trusts:** For beneficiaries under age 21, an Age 31 Trust structure would require all retirement accounts, including growth from previous IRA distributions, be withdrawn and distributed to the beneficiary by the end of the year in which the beneficiary reaches age 31. No retirement withdrawals prior to that date would have to be distributed to the beneficiary. The Trustee has discretion to keep those proceeds within the Trust until the beneficiary reaches age 31 if distribution is not desirable before then, an advantage over the conduit trust structure above.

The options may seem overwhelming, particularly given that a young family's situation can change significantly over a few short years: accounts grow as parents advance in their careers, and children mature (or not). For this reason, many Warner trust agreements contain language allowing the trustee to elect the trust structure after both parents' deaths. This allows the trustee to take into account the relevant factors at that time, which may not be the same as when the parents complete their estate planning a few years prior.

If your estate planning needs involve minor children and retirement accounts, contact your Warner estate planning attorney, Sara Nicholson at snicholson@wnj.com or Juliette Peterson at jpeterson@wnj.com.

Awards + Accolades

Best Lawyers in America® 2025

- Daniel Borst
- Sean Cook – Detroit Closely Held Companies and Family Business Law Lawyer of the Year
- Carl Dufendach
- Mark Harder – Grand Rapids Trusts and Estates Lawyer of the Year
- Frank Henke
- Catherine Jacobs
- Laura Jeltema
- Karen Kayes
- Jay Kennedy
- Susan Meyers
- Laura Morris
- Jeffrey Power
- Jennifer Remondino
- David Skidmore – Grand Rapids Trusts and Estates Litigation Lawyer of the Year
- James Steffel
- W. Michael Van Haren
- Haley Clough – selected to Ones to Watch list
- Nina Lucido – selected to Ones to Watch list
- Erin Poston – selected to Ones to Watch list

Super Lawyers Magazine

- Sean Cook
- Mark Harder – also named a Super Lawyer for 20 years
- Frank Henke
- Susan Gell Meyers
- David Skidmore – also Top 100
- Haley Clough – Rising Star
- Nina Lucido – Rising Star

Chambers High Net Worth Guide 2025

Private Wealth Law:

- Mark Harder
- Laura Jeltema
- Susan Gell Meyers
- Jennifer Remondino
- David Skidmore
- W. Michael Van Haren

Family/Matrimonial Law:

- Richard Roane

Creating a Life Plan for Loved Ones with Special Needs

Catherine Jacobs | cjacobs@wnj.com



Nearly 60% of Americans rely on Medicaid at some point in their lives, and roughly 15% of non-institutionalized adults between the ages of 21-64 receive Supplemental Security Income (SSI) at any given moment. These programs form the last line of defense between many of our most vulnerable neighbors and severe financial hardship. Because both Medicaid and SSI are “means-tested,” a beneficiary must keep countable assets below very modest limits, generally no more than \$2,000 to remain eligible.

For families who wish to leave an inheritance to a loved one with disabilities, this rule can create an uncomfortable dilemma: disinherit the beneficiary, give the beneficiary an outsized share of the estate or divide assets equally and hope the inheritance will not jeopardize critical public benefits. Fortunately, federal and state laws permit a fourth, far more effective solution: the special needs trust (SNT).

An SNT is a legal arrangement that holds and manages assets for a beneficiary with disabilities without treating those assets as “countable” for Medicaid or SSI purposes. Properly drafted, the trust permits distributions only for goods and services that will not reduce or eliminate public benefits. Basic necessities, such as shelter and routine medical care, continue to be covered by Medicaid and SSI, while the SNT “supplements” those benefits by paying for items and experiences that enrich the beneficiary’s quality of life.

Special needs trusts fall into two broad categories. A first-party SNT is funded with the beneficiary’s own assets. It is typically used when a person with disabilities receives money outright. Common examples include when an individual receives a direct inheritance or a personal-injury settlement, or they accumulate savings that exceed the \$2,000 limit. By transferring the excess assets into a first-party SNT, the beneficiary can preserve or regain eligibility for public benefits. Federal law, however, requires any funds remaining in a first-party SNT at the beneficiary’s death be used to reimburse the state for Medicaid benefits previously provided.

A third-party SNT is funded with someone else’s money, most often a parent, grandparent, sibling or other relative. The third-party SNT is created either during the benefactor’s lifetime or under a will or revocable trust. Because the assets never belong to the beneficiary, they are not counted for Medicaid or SSI eligibility. Unlike a first-party SNT, there is no mandatory “payback” to the state when the beneficiary dies. The person establishing the trust retains full control over who will receive any remaining property.

Trustees of either type of SNT must understand which expenditures are permissible. Distributions of cash directly to the beneficiary or payments for rent, mortgage, utilities or other “shelter” expenses will generally reduce SSI benefits and may create Medicaid complications. By contrast, trust funds can usually pay for non-essential utilities such as food; internet or cell phone service; home furnishings and renovations that improve accessibility; out-of-pocket medical or dental care; adaptive equipment; education; entertainment; clothing; therapeutic companions or personal-care aides; travel (including travel costs for a companion); vehicles and related expenses; and other goods and services that enhance the beneficiary’s daily life.

Although the legal landscape of special needs planning is complex, families need not face it alone. An attorney who concentrates in elder law and special needs law can design a tailored plan that protects crucial public benefits while providing the extras that allow a loved one with disabilities to live with dignity, comfort and independence long after the primary caregivers are gone.

If you have beneficiaries with special needs, contact your Warner estate planning attorney or Catherine Jacobs at cjacobs@wnj.com.

New Vlog Series: Warner Medicaid Moments

Introducing a new video series that covers key topics like spend downs, qualification requirements and whether the government can “take your home,” making a complex process easier to understand. Scan the QR code to learn more.



Noteworthy

Recognizing the Achievements of Our Trusts and Estates Team

Beth O'Laughlin was named new executive partner of Warner's Holland office.

Catherine Jacobs was named partner in Warner's Grand Rapids office.

Julia Schall was named senior counsel in Warner's Detroit office.

Sara A. Nicholson was elected a Fellow to the American College of Trust and Estate Counsel.

Mark Harder was appointed to ACTEC's Program Committee starting in March of 2025, and reappointed to the Business Planning Committee, Practice Committee and Program Committee, where he was already a member.

W. Michael Van Haren, who has been practicing law as a member of the State Bar of Michigan for 50 years, celebrated his Golden Anniversary in May 2025.

Catherine Jacobs was recognized as a Notable Nonprofit Board Leader by Crain's Grand Rapids Business.

Danelle Harrington was interviewed by Midland Daily News about beginning the estate planning process when someone turns 18 years old in the article "Attorneys Emphasize Importance of Estate Planning."

Mark Harder, Jennifer Remondino and **David Skidmore** presented at the 65th Annual Probate & Estate Planning Institute on June 12. Mark Harder joined the panel "The Ultimate Estates and Protected Individuals Code (EPIC) Q&A: 25 Years of Progress and Pain Points." Jennifer Remondino presented "Connelly and Business Succession Planning in 2025." David Skidmore presented a case law update to discuss legal developments impacting estate planning and the probate industry.

Raquel Sportel presented a seminar on "Undisclosed Trusts After EPIC Omnibus Legislation" for ICLE.

Jennifer Remondino moderated the panel "Lessons and Wisdom from Experience" at the 2025 FOX Private Trust Company Workshop.

Nina Lucido presented on "Alternatives for Gifting to Minors" at the 34th Annual Drafting Estate Planning Documents Seminar on February 25 for ICLE.

David Skidmore presented "Hot Topics in Probate Litigation Relevant to Estate/Trust Administration" for Greenleaf Trust in Kalamazoo on July 15.

Danelle Harrington presented "Distribution & Equalization Ideas for Distributing Your Estate Among Farm & Non-Farm Children" at the Take Root: Farm Succession and Estate Planning Conference in February 2026.

Merica Dobry, David Skidmore, Molly Nicol and **Raquel Sportel** presented at the annual Midwest Trust and Wealth Management Conference in October 2025. Merica Dobry opened the program with "Power with Purpose: Understanding the Uniform Power of Attorney Act." David Skidmore presented a case law update addressing legal developments affecting estate planning. Molly Nicol and Raquel Sportel jointly presented "Lasting Legacies: The Potential Role of Irrevocable Trusts in Estate and Asset Planning."

Merica Dobry and **Karen Kayes** spoke at The Foundation for Muskegon Community College's "Estate Planning Made Easy: Safeguard Your Legacy" event in October 2025.

Mark Harder and **John Martin** edited and provided commentary for the April 2025 two-volume update of the Michigan Probate Sourcebook, a much-used reference guide by Michigan probate attorneys and judges.

"**Warner Medicaid Moments**," Warner's latest vlog, was launched with positive momentum. Partner **Catherine Jacobs** provides easy-to-understand explanations about Medicaid and paying for long-term care.

Multiple Warner attorneys edited or wrote chapters for the Michigan Estate Planning Handbook, Fourth Edition:

- **Mark Harder**, co-editor of the handbook and author of "Planning for a Surviving Spouse."
- **Laura Jeltema**, author of "Directed and Divided Trusteeships."
- **Sara Nicholson**, co-author of "Planning with Retirement Benefits."
- **Molly Nicol**, co-author of "Estate Planning for Special Family Situations."
- **Jennifer Remondino**, co-author of "Trustee Administrative Powers" and "Implementing the Estate Plan."
- **David Skidmore**, co-author of "Forms of Property Ownership."



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