

CLIENT AND FRIEND NEWSLETTER

May 2025

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LAW OFFICES OF
BETH A MCDANIEL
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POWER AND RESPONSIBILITY: NAVIGATING A DURABLE POWER OF ATTORNEY FOR FINANCES AS AN AGENT BY CHRISTINE WANG, J.D.

When an individual (the "Principal") signs a Durable Power of Attorney for Finances ("DPOA"), they are authorizing another person --- known as the agent -- to manage assets on their behalf.

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WASHINGTON STATE ESTATE TAX: POSSIBLE ADJUSTMENTS COMING BY BETH A MCDANIEL, JD, CLEA



One of the bills currently awaiting signature by Governor Ferguson is ESSB 5813, which would, among other tax changes, raise the Washington estate tax exemption from \$2.183 million to \$3 million for the

estates of individuals dying on or after July 1, 2025. The estate tax applies to deceased Washington residents and deceased non-residents who have assets located in Washington state. Under the new law, the \$3M exemption will be adjusted annually for inflation based upon the applicable Consumer Price Index. This marks the first increase to Washington's...

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PLANNING A GIFT FOR A MINOR? CONSIDER A WASHINGTON UTMA ACCOUNT BY SYDNEY J. SHERMAN, J.D.

If you are considering leaving on your death money or property to a minor child, whether to help with college, savings, other future goals, or for spending as they like, a UTMA account may...

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CONT: WASHINGTON STATE ESTATE TAX: POSSIBLE ADJUSTMENTS COMING BY BETH A MCDANIEL, JD, CLEA

Washington State Estate Tax: Possible Adjustments Coming.

Under the new proposed law, there continues to be estate tax deductions for qualified family-owned business interests (“QFOBI”) or timberland, provided certain requirements are met. The tax rates for assets over the \$3 million exemption will also increase under the proposed law as follows:

Washington Taxable Estate Value	Current Rate	New Rate
\$0 to \$1,000,000	10%	10%
\$1,000,000 to \$2,000,000	14%	15%
\$2,000,000 to \$3,000,000	15%	17%
\$3,000,000 to \$4,000,000	16%	19%
\$4,000,000 to \$6,000,000	18%	23%
\$6,000,000 to \$7,000,000	19%	26%
\$7,000,000 to \$9,000,000	19.5%	30%
\$9,000,000 and up	20%	35%.

Disclaimer: this newsletter is informational only and should not be construed as legal advice.

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The term 'Durable' means that this authority remains in effect even if the Principal becomes incapacitated. By appointing an agent, the Principal places significant trust in the agent to make important financial decisions when they are unable to do so themselves. With that trust comes substantial responsibility as agents are held to specific duties and legal obligations under Washington State law. Under the law, the agent must do the following:

1) Act in the Principal's Best Interest

At its core, an agent's role carries a fiduciary duty to act with the care, competence, and diligence that a prudent person would exercise in a similar circumstance. An agent must always make decisions for the

primary benefit of the Principal. This includes, for example, avoiding any commingling of personal assets with the Principal's assets or making decisions which benefit the agent's own interests over the Principal's interests.

2) Follow the Instructions in the Document

Some Durable Powers of Attorney (DPOAs) grant to the agent broad powers to oversee a wide range of financial matters, from paying bills, to buying or selling property, or managing investments. Other DPOAs may limit the agent by stating they are authorized to perform only specific tasks, such as managing a bank account or filing tax returns. Regardless of the scope, an agent must act strictly

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under the powers given to them under the document. Note: if the document does not include a critical power -- for example, to change a beneficiary designation to direct funds to a special needs trust for a disabled child's benefit rather than directly to the disabled child -- it is possible for the agent to petition the court and request the power to take that action.

3) Keep Good Records
Washington law (RCW 11.125.140(2)(d)) requires agents to keep a record of all financial transactions the agent makes on the Principal's behalf. This includes keeping receipts, bank statements, and notes about decisions made. These records are essential for accountability and must be available if the Principal -- or a party with an interest in the Principal -- asks to review them.

4) Disclose Your Role as Agent

When acting on the Principal's behalf the agent must clearly identify themselves as acting in that role. This typically means the agent signs documents as "[Principal's Name] by and through [Your Name] as Agent" This makes it clear to third parties such as, banks or service providers, —that the agent is acting on the Principal's behalf and not on their own behalf.

5) Delegate Only When Permitted (RCW 11.125.140(8))

It is generally expected for agents to personally perform their duties. An agent cannot delegate their authority to someone else unless the DPOA specifically allows the delegation. Even if delegation is permitted under the DPOA, the

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agent remains responsible for ensuring that any delegated tasks are managed properly and align with the Principal's interests.

6) Respect the Principal's Wishes (RCW 11.125.140(2)(f))

Even when an agent has the authority to act, they must always honor the Principal's known wishes and values. This includes making decisions which align with the Principal's estate plan, to the extent known by the agent. The agent should also take actions, when appropriate, that help maintain the Principal's eligibility for government benefits, programs, or assistance. Note: if the Principal is competent, they can override the agent's decisions — or revoke the DPOA

entirely.

Serving as an agent under a Durable Power of Attorney (DPOA) is a significant responsibility – and is not a blank check. Washington State law requires agents to act with care, loyalty, and transparency. If you have been named as an agent, it is essential to carefully review the DPOA document, understand the scope of your authority, and determine whether your powers take effect immediately or only upon a physician's determination that the Principal is can no longer able to act. When in doubt, seek legal guidance. Acting in good faith not only protects the Principal but also safeguards the agent from potential legal liability

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CONT: PLANNING A GIFT FOR A MINOR? CONSIDER A WASHINGTON UTMA ACCOUNT

be an effective option. In Washington State, these accounts are governed by the Uniform Transfers to Minors Act (UTMA), which is found in Chapter 11.114 of the Revised Code of Washington (RCW).

What Is a UTMA Account?

A UTMA account allows an adult to transfer assets to a minor without the need to create a trust or the involvement of a court-appointed conservator for the child. Instead, the adult designates a custodian, who is legally responsible for managing the assets for the child's benefit until they reach a specified age – anywhere from 18 to 25 in Washington State.

Gifts under the UTMA can include cash, stocks, bonds, real estate, or other valuable property. Once the gift is made, the assets legally

belong to the child and are reported under the child's social security number. However, the custodian retains full control over how the assets are managed and used until the child reaches the designated age.

To ensure the account qualifies under Washington law, it must include specific language in its title. For example, the account should be titled, "Jane Doe, as custodian for Jon Doe under the Washington Uniform Transfers to Minors Act."

Custodians are fiduciaries, meaning they are legally obligated to act in the child's best interest. Their duties include managing the assets prudently, keeping accurate records, and using the funds exclusively for the child's benefit. Permissible expenses include education expenses, extracurricular activities,

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medical care, and general support. When the child reaches the specified age, the custodian must transfer full control of the assets to the child, who can then use the assets however they choose.

Why Consider a UTMA Account?

UTMA accounts are easy to establish, typically through a bank or brokerage, and do not require a trust document or typically require court supervision. In addition, they may offer certain tax advantages as trusts are taxed at higher rates. The income generated by an UTMA account is taxed at the child's lower income tax rate; however, the "kiddie tax" rules may apply -- meaning, annual income over \$2,700 (as of 2025) is taxed at the parents' tax rate.

It is possible to designate an

alternate custodian to serve if the custodian is no longer able to act. It is also possible to name a Trustee of a trust as the custodian.

Is a UTMA Account Right for You?

UTMA accounts provide flexibility. They can hold a wide range of assets from financial accounts and real property to intellectual property. Most important, a UTMA account allows a trusted adult to manage a child's financial gift until the child is legally an adult and able to take responsibility.

A UTMA account can be a straightforward and cost-effective way to provide financial support to a child while maintaining appropriate oversight. Whether you are a parent, grandparent, or another caring adult, this planning tool can

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help you make a meaningful, legally sound gift.

If you are considering a UTMA account or would like to know

whether it fits with your family and financial goals, we would be happy to assist you in evaluating your options.

If have questions or wish to make an appointment, please contact our client care coordinator, Margo Passeau, at (425) 296-3121 or margo@bethmcdaniel.com.
