March 2026

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Placing a Loved One in an Adult Family Home – Part II
By Beth A. McDaniel, JD, CELA

Caveat: this article is based upon my opinion. It is unusual for our newsletter to contain an article about a particular company. Know that we are doing so because we want readers of this newsletter to be informed consumers

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Washington Legisture's Second Thoughts Regarding Estate Tax
By Beth A. McDaniel, JD, CELA

"In this world, nothing can be said to be certain, except death and taxes." Benjamin Franklin

Currently twelve states, including Washington, and the District of Columbia have a state estate tax in addition to the federal estate tax. From January 1, 2018, to June 30, 2026, Washington's estate tax exemption was $2.193 million, with graduated tax rates ranging from 10% to 20%. Although the statute provided annual inflation adjustments, the name and scope of the Consumer Price Index (CPI) changed in 2018 from the Seattle-

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In Re the Estate of Franks: Washington State Estate Taxes and Committed Intimate Relationships
By Beth A. McDaniel, JD, CELA

Since 1995, Washington has recognized "committed intimate relationships" through case law, beginning with the case Connell v. ...

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CONT: WASHINGTON LEGISTURE'S SECOND THOUGHTS REGARDING ESTATE TAX

Tacoma-Bremerton Price Index to the Seattle-Tacoma-Bellevue Price Index. as a result, the estate tax exemption did not have an inflationary increase from 2018 onward.

In 2025, the law was amended to reflect an increased $3M exemption for Washington citizens dying after July 1, 2026, with annual inflation adjustments each January 1 thereafter. At the same time the top estate tax rate increased significantly from 20% to 35%, -- giving Washington the highest top estate tax rate in the country. By comparison, Hawaii's top rate is 20%, and most states with an estate tax impose a top rate of 16%.

It appears that members of the Washington State Senate have recognized that the new top estate tax rate could incentivize higher net-worth Washington residents to consider changing their domiciles to states with lower or no estate tax. As a result, SB 6347 -- currently pending -- would restore the estate tax rates to the prior rates of 10-20%, The bill has passed the State Senate and is currently pending in the House.

On Monday, March 2, 2026, SB 6347 was voted out of the Finance Committee in the Washington State House of Representatives, subject to an amendment. If the bill passes as amended, all estate tax changes effective July 1, 2026 -- including the updated CPI – would be repealed. As a result, effective July 1, 2026, the estate tax exemption would return to $2.193 Million, without any inflation adjustment, and the estate tax rates would go back to 0-20%.

If you think the House should pass SB 6347 as originally presented (only reducing the estate tax rates back to 10-20% but keeping the $3.076 M exemption), I encourage you to

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CONT: Washington Legisture's Second Thoughts Regarding Estate Tax

contact your representatives. At this time, it is not known as to when the vote on the House floor will occur. The current legislative session ends March 12, 2026. Governor Ferguson has until April 4, 2026, to sign any bills passed during the legislative session.

CONT: Placing a Loved One in an Adult Family Home – Part II

An adult family home (AFH) is a licensed residential home, typically located in a neighborhood setting, which provides 24-hour care, room, and board for two to six adult residents. These homes serve seniors and adults with disabilities who require assistance with activities of daily living but do not require 24/7 skilled nursing care. AFHs are regulated and licensed by the Washington State Department of Social and Health Services.

There are more than 5,500 adult family homes located in Washington State, including hundreds in Renton alone. With so many available options, selecting the right adult family home can be overwhelming especially as this decision often arises under the emergent circumstance of a hospital or rehabilitation facility advising the family that their loved one can no longer live independently and needs to be placed in an appropriate level of care or they will have to pay the rehabilitation facility privately at a daily rate of $500-600 or more.

In these circumstances, families often rely on the services of a senior placement agency to assist them

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CONT: Placing a Loved One in an Adult Family Home – Part II

with selecting an adult family home. To become a senior placement agency in Washington, an individual must obtain the appropriate state, county, and city business licenses, and $1 million in professional liability insurance. Once established, they must comply with the provisions of the Elder and Vulnerable Adult Referral Agency Act (RCW 18.330).

Founded in Seattle in 1997, America's largest senior placement agency is A Place for Mom (APFM). Like me, you may have become familiar with APFM through its commercials featuring its spokesperson, Joan Lunden.

The founders of APFM are Pamela Temple, John Temple, and Brian Tisler. Prior to its founding, Pamela Temple had spent 15 years in the assisted living industry, mostly in marketing and sales, and John Temple had worked at Microsoft for ten years, overseeing its technology and finances. The third co-founder, Brian Tisler, provided start up experience. Within five years of its inception, APFM grew into a profitable business with 150 advisers throughout the country providing consumers with advice regarding 11,000 assisted living facilities.

Beginning in 2019, A Place for Mom undertook a two year 'reinvention,' with plans to secure substantial new investments; the company raised $175 million by 2022 (Senior Housing News, January 24, 2022). APFM is currently headquartered in New York City and is owned by two private equity firms.

Although APFM promotes itself as a free service, leading some consumers to believe it is a non-profit, APFM is highly profitable, generating annual revenues of $500 million from advertising and placement fees paid

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CONT: PLACING A LOVED ONE IN AN ADULT FAMILY HOME – PART II

by facilities upon successful placement. Unsurprisingly, the commissions are passed on to residents in the form of the fees charged by the facility.

There are things consumers should consider before using APFM's services. First, if you call one of the facilities listed on the APFM's website, know that you may not be talking to a representative of the facility, but rather an APFM representative. Second, know that if you look at a facility on the APFM website, tour it with a representative of another senior placement facility, and then select that facility for your loved one, not only will the touring placement agency receive a commission from the facility, APFM may demand they be paid a commission by the facility as well. It is my understanding that the facility typically pays the second commission as they do not want to get in APFM's bad graces.

Note: APFM's robust website features only facilities who give it a commission, about half of the available facilities nationwide. By their own admission, APFM endeavors to avoid working with families seeking Medicaid coverage.

In 2019, a $6 million class action lawsuit filed against APFM was settled without APFM's admitting fault. The lawsuit alleged that APFM violated the Telephonic Consumer Protection Act. The lawsuit was initiated by a plaintiff who claimed he was not notified he would receive an 'automated telemarketing call' after completing a form on APFM's website. It was alleged in the lawsuit that a disclaimer in small font on the APFM's website did not constitute proper written consent.

In 2024, the U.S. Senate's Special Committee on Aging launched an investigation into APFM. According to

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a June 17, 2024, letter from then Chairman Robert P. Casey, the committee opened the probe following allegations that APFM directed consumers to senior living facilities they could not afford or to facilities with documented safety and regulatory violations, in exchange for substantial commissions.

Additionally, APFM's website does not disclose its relationship with the facilities. Its terms of use state that APFM 'does not vouch for the accuracy or completeness of any of the information posted by and/or for the Participating Community on the Sites, and do not take any responsibility or assume any liability for any actions you may take as a result of reading the information posted by and/or for the Participating Community on the Sites.'

Ironically, on February 6, 2024, APFM issued a press release announcing that it had received a Best of Senior Living Award, based on reviews from residents and their families. The contrast is striking in light of the federal scrutiny.

It is unclear as to whether APFM responded to the June 17, 2024, letter from the US Senate Special Committee on Aging by July 15, 2024, as requested, or what the current status of the investigation is. Notably, neither of our state's U.S. Senators serves on this committee.

In our February 2026 newsletter I referenced the Association of Senior Referral Professional (ASRP), an organization whose members are senior referral professionals held to specific ethical standards. Before the pandemic, I had the opportunity to meet with two ASRP's officers, who noted that APFM is not a member of ASRP because it does not meet their ethical standards. When I asked

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CONT: Placing a Loved One in an Adult Family Home – Part II

whether the ASRP website provides this information to consumers, and they responded 'No, that would be slander.'

It is unfortunate that information about senior placement agencies with potentially unethical practices is largely unavailable to the public, particularly given the vulnerable population they serve. As a result, families must rely on referrals from trusted individuals or consult with organizations like ASRP. By contrast, the public can easily access information about disciplinary actions against Washington attorneys through the Washington State Bar Association's website (wsba.org).

CONT: In Re the Estate of Franks: Washington State Estate Taxes and Committed Intimate Relationships

Francisco. A decade later, in the 2005 case, Olver v. Fowler, the Court held that the committed intimate relationship doctrine recognizes property interests acquired during a stable, marriage-like relationship where both parties cohabit with knowledge that a lawful relationship exists, property acquired during the relationship is treated as community-like property, having a 50-50 interest, regardless of how the property is titled.

Factors the Courts use to establish whether a committed intimate relationship exists include continuous habitation, length of relationship, purpose of the relationship, pooling of resources, and the intent of the parties.

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CONT: In Re the Estate of Franks: Washington State Estate Taxes and Committed Intimate Relationships

By contrast, a committed intimate relationship is not the same as a common law marriage. Seven states, and the District of Columbia, recognize common law marriage. In those jurisdictions, a couple may be considered legally married even though they have not had a formal marriage ceremony or obtained a marriage license.

The specific criteria for a common law marriage may vary from state to state. For example, in Texas, a common law marriage exists if the couple agreed to be married, lived together in Texas as husband and wife, and represented to others that they were married.

When a committed intimate relationship ends, any property acquired during the relationship is subject to a 'just and equitable distribution.' Upon the death of the first partner, if substantial community-like assets are held solely in the deceased partner's name, the surviving partner is often put in a position to 'prove' the existence of the committed intimate relationship and their one-half ownership in the property.

This is typically accomplished through a petition under the Trust and Estate Dispute Resolution Act (TEDRA) or other forms of civil litigation. In the greater Seattle area, several attorneys specialize in handling committed intimate relationship cases and related estate disputes.

In a committed intimate relationship, if the first partner-to-die's estate exceeds the Washington state estate tax exemption, estate tax is due within nine months of their death. In contrast, for married couples, estate

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CONT: In Re the Estate of Franks: Washington State Estate Taxes and Committed Intimate Relationships

tax is due within nine months of the second death.

In Re the Matter of the Estate of Jack L. Franks, deceased

Facts: Jack Franks (Franks) and Annelise Roldan (Roldan) were in a 40-year committed intimate relationship. At the time of Franks' August 2017 death, all the couple's properties were titled solely in Franks' name. Franks died with a valid Will, which he had executed in 2005. Under his Will, Franks left most of his assets to Roldan (three parcels of real property, one investment account, and twelve cars), one dollar to his son, and the remainder of his estate to his two grandsons. A bank was appointed as personal representative of Franks' estate. Franks' son contested the Will and sought to have it invalidated. Franks' son also filed a creditor's claim against the estate for unpaid work. Franks' grandsons disputed the son's challenge and asked that the assets to be distributed under the terms of the Will. Roldan responded to the son's Will contest by filing a TEDRA Petition.

The parties (Franks' son, grandsons, and Roldan) ultimately reached a settlement agreement. The settlement agreement established that Franks and Roldan had a committed intimate relationship. The parties agreed that all the couple's assets were acquired during their 40-year relationship. The couple's assets totaled $8.3 million, with each having a $4.15 million one-half interest. A month later, a trial court approved the settlement agreement.

The estate filed a tax return with

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Washington's Department of Revenue (Department). On the return, the estate claimed Franks' gross estate, minus exclusions, was about $4.13 million. The return listed Roldan as the surviving spouse and stated Franks' marital status was 'divorced.'

The Department wrote a letter to the estate stating its disagreement. In its letter, the Department asserted that although Roldan and Franks were in a committed intimate relationship, Franks' estate at the time of death included the entire $8.3 million and Roldan's one-half interest was distributed following Franks' death. The Department wrote that characterizing the property as community property was contrary to both statute and case law. The Department advised the estate that it owed estate taxes of $824,000, plus interest.

After the estate and the Department exchanged communications for more than two years, the Department filed in the superior court its findings of the taxes owed by the estate.

The estate objected to the department's findings and filed another TEDRA petition. The estate argued that it properly filed its taxes and that 'Washington law clearly holds that a committed intimate partner holds an undivided half-interest in community-like property that severs immediately upon death.' The estate further argued that a 'petition to obtain a portion of community-like property from a deceased person's estate is a valid claim under Washington law.'

The Department argued that the

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CONT: IN RE THE ESTATE OF FRANKS: WASHINGTON STATE ESTATE TAXES AND COMMITTED INTIMATE RELATIONSHIPS

committed intimate relationship doctrine only applies to property division. The Department further argued that since Rodan had not submitted a bona fide claim against the estate, the estate never actually claimed a deduction on its tax returns.

The trial court held a hearing, overruled the department's findings, concluding that Roldan's one-half was not part of Franks' estate at the time of his death. The trial court declared the estate had fully paid all estate tax due and denied the estate's request for attorney fees.

The department appealed, arguing that the trial court erred and Roldan's one-half interest was part of Franks' taxable estate. The department further argued that Roldan's TEDRA petition was not a valid claim that is deductible from the estate.

On February 3, 2026, the appellate court found that the trial court correctly applied the committed intimate relationship doctrine as Roldan acquired an undivided one-half interest in community-like property during the relationship and prior to Franks' death. Upon Franks' death, Roldan's one-half interest became her separate property. The appellate court awarded attorney fees to the estate at an amount to be determined by the trial court.

Takeaways from the Franks Case.

1. The Franks Case affirms the committed intimate relationship doctrine as property acquired during the relationship are community-like (50/50 equal ownership), regardless of whether the community-like assets are titled in one partner's name.

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2. Unless the partners entered into an agreement regarding their assets, the surviving partner may need to file a committed intimate relationship claim against the estate, even if the deceased partner died with a Will.

Additional Differences between married couples and committed intimate partners.

1. If a married Washington resident dies without a Will (intestate) the survivor spouse is entitled to 100% of the community property; in contrast, if a deceased partner of a committed intimate relationship dies intestate, the surviving partner has no rights to the deceased partner's one-half of the community-like assets unless the partners were in a registered domestic partnership (please see more below).

2. There are different tax treatments when a surviving partner is the beneficiary of the deceased partner's IRA versus when a surviving spouse is a beneficiary of a deceased spouse's IRA.

- a. Surviving Spouse: A surviving spouse who is a named beneficiary of an IRA can roll the IRA over into their own IRA or into a new inherited IRA and delay required minimum distributions until their required beginning date (age 73 in 2026). Note: if the surviving spouse is under the age of 59 ½, it is advantageous to rollover the account into a new inherited IRA as there will be no early withdrawal penalty for taking an early distribution from the new IRA inherited account.

- b. Surviving Partner. The IRS does not recognize committed partners as spouses for retirement account

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purposes. As a result, surviving partners cannot rollover an inherited portion of their partner's IRA into their own IRA account; instead, the surviving partner will need to establish a separate, inherited IRA.

Under the Secure Act, for decedent's passing away after January 1, 2020, the surviving partner must withdraw the entire inherited IRA by the 10th anniversary of the deceased partner's death. For traditional IRAs, this is typically accomplished through ten equal annual withdrawals. For Roth IRAs, the surviving partner may take one lump withdrawal just prior to the 10th anniversary of the deceased partner's death.

3. Social Security Benefits. There are differences between survivor social security benefits to which a surviving spouse is entitled versus a surviving partner.

- a. Surviving Spouse. A surviving spouse is eligible for survivor's social security benefits if they have been married for at least twelve months or are divorced, had a marriage which was ten years or longer, and are not currently married. There are, of course, exceptions, including that the survivor spouse does not have to have been married to their deceased spouse for a year if their spouse is the natural mother or father of their child. Another exception is if a spouse received spousal benefits from someone else at the time of their marriage, they do not need to wait one year to be eligible for benefits from their deceased new spouse.

- b. Surviving Partner. A surviving partner is not eligible for survivor's

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benefits upon their partner's death, with one exception: The Social Security Administration will recognize and provide survivorship benefits for a surviving registered domestic partner as a registered domestic partner is considered a formal union. The following are required to enter into a registered domestic partnership in Washington

- i. Both partners must share a common residence;
- ii. Both partners must be at least 18, and one partner must be at least sixty-two years of age or older;
- iii. Neither partner can be married to someone else or in a domestic partnership with another partner.
- iv. Both partners must have be capable of consenting to the domestic partnership; and
- v. The partners cannot be nearer kin than second cousins, whether full or half-blood; or be a sibling, child, grandchild, aunt, uncle, niece, or nephew to the other partner.

A domestic partnership is registered with Washington's Secretary of State, which requires completion of a notarized form and a $50 payment. Upon registration, partners will receive a Certificate of State Registered Domestic Partnership, a wallet card, and a file-stamped copy of their registration. Records of state registered domestic partnerships are public.

A domestic partnership must be terminated via court order. The Secretary of State's office should be notified by the former partners upon the dissolution.

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CONT: In Re the Estate of Franks: Washington State Estate Taxes and Committed Intimate Relationships

4. Committed Intimate Partners who relocate to another state may not continue to be recognized as being in a committed intimate relationship. Committed Intimate Partners should seek legal advice from an attorney in the new state prior to relocating.

If you have questions about anything in this newsletter, or would like to update your estate plan, please contact our client care specialist, Margo Passeau at 425-296-3121 or margo@bethmcdaniel.com.

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