



**Financial Principles, LLC**



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## **NEWS**

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# **Estate Planning in an Uncertain Tax Environment**

## *Local Advisor Tells Americans to Focus on What Can Be Controlled Rather than What Might Happen*

Fairfield, NJ (February 18, 2009) — Although Ben Franklin famously quipped that there are only two guarantees – death and taxes, 2010 has begun without an estate tax because Congress failed to pass a new estate tax law before the 2009 sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001.

“The House of Representatives passed an extension of the current 2009 estate tax rate, however the Senate, which is more partisan, failed to act,” says Brad Bofford, an independent financial professional. “And while Congressional leaders have pledged to enact a retroactive fix early this year, if they don’t, estate taxes will be reinstated in 2011 at a rate of 55 percent for estates valued at more than \$1 million.”

Bofford warns that although estate taxes have been eliminated, there are many proposals, some of which would change the income tax aspects on inherited monies.

“When Congress acts, we may see the re-emergence of 2009’s exemption, thereby preserving all the carefully crafted estate plans,” says Bofford. “But if nothing happens on Capital Hill this year, come 2011, the pre-2001 \$1 million for singles and \$2 million for couples exclusion returns, and the top rate for assets above that amount would revert back to the 55% level set before EGTRRA.”

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Having federal estate tax laws in flux is obviously difficult from a planning perspective Bofford says. The fact that more than 20 states already have decoupled from the federal estate tax system also presents challenges.

But rather than get preoccupied with “what if” scenarios, Bofford suggests focusing on the things related to estate planning that can be controlled.

“Rather than spend our time second guessing Congress and bemoaning the continued lack of clarity from Washington, I urge clients to focus on an estate planning issue that potentially can have a greater impact on their heirs than whether the estate tax exemption increases by \$500,000 or \$1 million – beneficiary designations,” says Bofford.

While a will can often be viewed as the cornerstone of an estate plan, Bofford says it’s important to remember that there are assets that pass outside of the will directly to beneficiaries. Proceeds from life insurance, investments in Individual Retirement Accounts (IRAs), annuities, qualified retirement plans (such as 401(k)s, 403(b)s, and SEPs), as well as trust property pass directly to named beneficiary, bypassing probate. Jointly owned property like homes, cars, bank and investment accounts also automatically pass to the surviving co-owner, avoiding probate.

One aspect people often overlook during the estate planning process is that the beneficiaries named for assets such as IRAs and 401(k)s take priority over will instructions. “I’ve seen instances where a 50 year-old woman with a husband and family still has her father listed on the beneficiary account of the 401(k) from her first job,” says Bofford. “If her father is dead when she passes away, the 401(k) would be directed to her father’s heirs, not her family.” As such, Bofford recommends a review of beneficiary forms at least every two years.

The following tips can help you ensure that you have properly designated your beneficiaries:

- **Do not list “my estate” as your beneficiary.** IRA beneficiaries should be named people because estates and other legal entities don’t have life expectancies.
- **Name your beneficiary carefully.** A spousal beneficiary has the greatest flexibility for delaying IRA distributions that are subject to income tax. In addition to rolling the IRA into his or her IRA account, a surviving spouse can decide to treat the IRA as his or her own IRA. This can provide

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greater flexibility for long-term tax planning. “One consideration from a tax planning perspective is whether or not you could be increasing the size of your spouse’s estate beyond any applicable future exclusion amount,” says Bofford.

If a non-spousal beneficiary is named, he or she will not be permitted to co-mingle the inherited IRA with another account without taking a complete distribution and triggering taxes. However, as a designated beneficiary, a non-spouse beneficiary can stretch out distributions over his or her own life expectancy. Some financial institutions still restrict beneficiary options in their IRA custodial agreements or annuity contracts and might not allow the stretch IRA, so it’s wise to check on those details. If the non-spousal beneficiary is a minor, name a guardian for him or her because the courts’ view is that money left to a minor should be put in a savings account until that person is 18. In order to afford better investment options for a minor beneficiary, name a guardian who can invest the money on their behalf.

- **Attend to the per stirpes designation.** Pay attention to whether or not assets are left to a blood relative — such as a child or grandchildren rather than a child’s spouse. Many fund companies have a completely separate form for the per stirpes designation, so ask for it by name.
- **Review your plan in light of the recession.** Market downturn presents both challenges and opportunities for estate planning. “A quick to-do list should include reviewing your will and beneficiary forms to ensure that losses in asset values of your real estate holdings or investment accounts have not resulted in an unintended, disproportionate distribution to your heirs,” says Bofford. “In addition, if gifting is part of your estate planning strategy, now could be a good time to gift assets whose values have plummeted to minimize transfer taxes.”

### **About Financial Principles, LLC**

Financial Principles understands the importance of planning – whether it’s for retirement, saving for college or even charitable giving. Two senior partners, Bradley H. Bofford, CLU, ChFC, and Mike Flower, bring a combined 25+ years of financial services experience to their clientele. Both are recognized as qualifying life members of the prestigious Million Dollar Round Table, “The Premier Association for Financial Professionals®”. As representatives of Securities America, Inc., Bofford and Flower are able to provide comprehensive services and advice in all areas of personal finance, such as estate planning, retirement planning and tax reduction strategies.

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Bofford and Flower believe that a well-informed client is essential for success. They love taking clients from fear to confidence regarding finances, by placing a strong emphasis on educating people about how to prepare for and enjoy a comfortable retirement. Both advisors have contributed to articles in several leading trade publications including Investment News, Financial Advisor, and Research magazine as well as consumer outlets such as BusinessWeek, Money and New Jersey Business magazine. Learn more at [www.financialprinciples.com](http://www.financialprinciples.com).

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Written by Brad Bofford, Securities America, Inc. Registered Representative in conjunction with Impact Communications.

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