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# Legal Bytes

## MEMORIAL DAY -- A DAY FOR REMEMBRANCE

Memorial Day, original called Decoration Day, is observed on the last day of May, and is for the purpose of honoring the men and women of our country who died while serving in the U.S. Military. It originated in the years following the Civil War, and became an official federal holiday in 1971.

General John A. Logan, a leader of an organization for Northern Civil War Veterans, called for a nationwide day of remembrance: "The 30<sup>th</sup> day of May, 1868 is designated for the purpose of strewing with flowers, or otherwise decorating the graves of comrades who died in defense of their country during the late rebellion, and whose bodies now lie in almost every city, village and hamlet churchyard in the land." He called it "Decoration Day" because it was not the anniversary of any particular battle. On the first Decoration Day, General James Garfield made a speech at Arlington National Cemetery, and 5,000 participants decorated the graves of the 20,000 Union and Confederate soldiers buried there.

Memorial Day, as Decoration Day gradually came to be known, was expanded to honor not only those who died in the Civil War, but today commemorates American military personnel who died in all wars.



Operation Gratitude  
Fisher House

[www.operationgratitude.com](http://www.operationgratitude.com)  
[www.fisherhouse.org](http://www.fisherhouse.org)

Disabled Veterans of America  
Paralyzed Veterans of America  
Wounded Warriors

[www.dvnf.org](http://www.dvnf.org)  
[www.dvnf.org](http://www.dvnf.org)  
[www.woundedwarriorproject.org](http://www.woundedwarriorproject.org)

When my family and I travelled to Washington, DC for the purpose of laying my parents to rest at Arlington National Cemetery, I found it impossible not to shed a tear when one stands among the rows of all the headstones at Arlington, and realize that these are our brothers and sisters, mothers and fathers, friends, and fellow Americans, who made the supreme sacrifice to keep us free.

In 1915, inspired by the poem "In Flanders Fields," Moina Michael replied with her own poem:

*We cherish too, the Poppy red  
That grows on fields where valor led,  
It seems to signal to the skies  
That blood of heroes never dies.*



She then conceived of an idea to wear red poppies on Memorial Day in honor of those who died serving the nation during war. She was the first to wear one, and sold poppies to her friends and co-workers with the money going to benefit servicemen in need.

Our servicemen and our veterans deserve our appreciation and support for their sacrifices. There are many ways to show our appreciation - from Care Packages for our currently deployed troops, to donations to various organizations that help disabled, paralyzed and wounded servicemen and women. Here are some of those organizations:

Care Packages to deployed troops  
Provides free housing to military families close to loved ones who are hospitalized  
Help for injured veterans  
Education, resources, job assistance  
Honoring and empowering veterans who were wounded

## WISCONSIN'S NEW DIGITAL PROPERTY ACT

### [HOW IT IMPACTS YOUR ESTATE PLAN]

#### ***What are digital assets?***

Digital assets are electronic records in which individuals have a right or interest. As the number of digital assets held by the average person increases, questions surrounding the disposition of these assets upon the individual's death or incapacity are becoming more common.

The scope of the issue becomes quite apparent once you consider the following types of digital property used on a daily basis by most people:

- e-mail accounts, the content of e-mail messages and other electronic communications protected under federal privacy laws;
- data in smart phones, tablets, netbooks and computers, and online sales accounts (e.g., eBay, Amazon);
- online purchasing accounts (e.g., PayPal); online storage and cloud storage accounts (e.g., DropBox, Shutterfly, and Google Drive);
- webpages, domain names, usernames, blogs, social networking accounts (e.g., Facebook, Twitter, LinkedIn); and
- intellectual property rights in digital property; to name just a few.

#### ***What is the problem?***

These assets can have real economic or sentimental value, and yet few laws exist on the rights of fiduciaries over digital assets.



Holders of digital assets may not have considered the fate of their online presences once they are no longer able to manage their assets, and may not have expressly provided for the disposition of their digital assets or electronic communications in the event of their death or incapacity.

Even when they do, their instructions may come into conflict with custodians' terms-of-service agreements. Some Internet service providers have explicit policies on what will happen when an individual dies, while others do not, and even where these policies are included in the terms-of-service agreement, custodians may not be fully aware of the implications of these provisions in the event of death or incapacity or how courts might resolve a conflict between such policies and a will, trust instrument, or power of attorney.

#### ***What did the Wisconsin Legislature do to help solve the problem?***

The purpose of Wisconsin's new "Digital Property Act" -- which became effective April 1, 2016 -- is twofold. First, it gives fiduciaries (executors, trustees, personal representatives, and agents under a power of attorney) the legal authority to manage digital assets and electronic communications in the same way they manage tangible assets and financial accounts. Second, it gives custodians of digital assets and electronic communications legal authority to deal with the fiduciaries of their users, while respecting the user's reasonable to facilitate fiduciary access and custodian disclosure, while respecting the privacy and intent of the user.

#### ***How does Wisconsin's Act work?***

The Act creates a priority system for determining the disclosure of digital property. First, a person may use an "online tool" to authorize and direct the disclosure of his or her digital property to a designated recipient. An online tool means a setting provided by the account provider that allows you to direct who your digital property can be disclosed to. It is important for you to realize that under the Act, a direction using an online tool overrides a contrary direction by the person in a will, trust, power of attorney, or any other governing instrument.

Second, if the person has not used an online tool, the person may authorize and direct disclosure of his or her digital property in a will, trust, power of attorney, or any other "governing instrument". Lastly, a person's direction in an online tool or governing instrument overrides a contrary provision in a terms-of-service agreement.

In addition, the Act contains various provisions governing the manner of disclosure of digital property, including the content of electronic communications to a fiduciary. The Act generally requires a custodian to disclose a person's digital property to a fiduciary if certain requirements are satisfied, and if the fiduciary provides certain information to the custodian.

The Act contains additional provisions relating to methods by which a custodian discloses digital property to a fiduciary; custodian compliance and immunity; terms-of-service agreements; and fiduciary duty and authority.

#### ***What do you need to do?***

You can bet that however much of your property consists of digital assets today, it will grow exponentially in the coming years. This being the case, you have to pay close attention to who you want to have access to that property in the event of your incapacity or death.

Wisconsin's new Digital Property Act provides you with the tools you need to authorize the custodian of your accounts to deal with your designated recipient. You need to work with your estate planning attorney to make sure your wishes are carried into legal effect.



## Coyote at the Kitchen Door Keeping Coyotes at a Distance (or in Your Gunsights)

By Terri and John Maier

### ***Terri's advice:***

Do you have a small pet that likes to roam outside? If so, this is the time of year to keep an especially close eye on it. That's because the coyote threat has gone up in southeastern Wisconsin and northern Illinois. Why...because that's where the food is. Coyotes can eat just about anything, from animals as big as deer to insects and even fruit and grass. A coyote's diet consists of pretty much anything that they can find in the area they are in at the time. They are not that picky when it comes to food.

More frequent sightings are typical for this time of year. A litter of 5-7 pups is born usually in April, after a gestation period of 60-63 days. The pups are born in a hidden den consisting of at least two tunnels leading to a 3-4 foot deep hole in the ground, so in May and June, we're starting to see more coyote activity.

Coyotes are drawn to urban and suburban neighborhoods for two reasons: human encroachment into native habitat, and the availability of food. Take the following steps to prevent coyotes from being attracted to your home:

- Seal garbage lids tightly
- When composting, use enclosed bins rather than exposed piles. Avoid adding dog or cat waste, meat, milk or eggs to compost.
- If you have fruit trees, pick the ripe fruit and keep fallen fruit off the ground.
- Motion sensing lights or sprinklers may deter coyotes from your yard. A motion sensing sprinkler, the "Scarecrow," is available from Wally's Workbench.
- Clear bushes and weeds away from your home.

Cats and small dogs may be seen as prey to the coyote, while larger dogs could be injured in a confrontation. To avoid these situations consider the following:

- Fence your yard. The fence must be at least six feet tall with the bottom extending at least six inches below the ground. Fences can be made more effective by outwardly flaring the top of the fence.
- Keep companion animals in at night. Coyotes are primarily nocturnal.
- Keep cats indoors

- Don't leave pet food or scraps outside.
- Spay or neuter your dogs. Coyotes are attracted to and can mate with unsterilized domestic dogs.

Coyotes are usually wary of humans and will avoid people whenever possible. However, children are more likely to be attacked by coyotes because they are small. Aggressive behaviors toward people are not normal, but if you encounter a coyote, remember:

- Never feed or attempt to "tame" a coyote.
- Avoid direct eye contact.
- Do not turn your back or run.
- Attempt to leave the area calmly.
- If followed, make loud noises and make yourself look big. If this fails, throw rocks or sticks in the direction of the coyote, being careful not to hit the coyote.



So, if you hear a chorus of howls and yips wild enough to fill a vast night sky, it is the coyote saying to everyone, "We are here."

### ***John's advice:***

Coyotes are an "unprotected species" in Wisconsin, and therefore there is no closed season -- it is always time to hunt them (in areas open to hunting), and there is no "bag" limit. Night hunting is allowed. You do need a small game license, and remember to obtain permission to hunt any coyotes you see on someone else's land -- no trespassing!



## What's the "Buzz" – on possible changes to estate and gift tax laws?

There is hardly a day that goes by that we don't ask ourselves: "Can taxpayers rely on the current higher estate tax exemption and rate?" After all, we base the recommendations we provide to our clients on what the law says, and what the "scuttlebutt" is on how the politicians might change it (again).

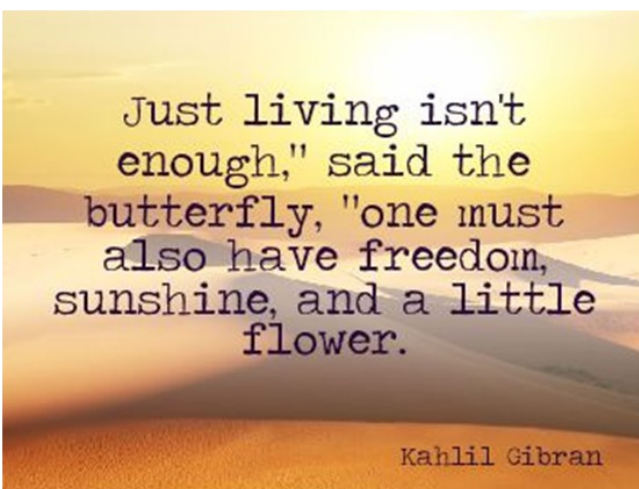
The answer is a guarded: "Yes, at least for now." For 2016, the exemption is \$5,450,000.00 and the tax rate is 40%. That means that only people with estates in excess of \$5.45 Million Dollars currently need to worry.

But wait a minute & "hold the presses"! A recent proposal was made by some Democratic lawmakers on the House Ways & Means Com. to cut the estate tax exemption to \$3.5 million and increase the top tax rate to 45%. But the proposal didn't go anywhere in the currently GOP- controlled Congress, despite President Obama's support.

But odds of an estate tax hike rise *if* Hillary Clinton wins the White House, and the Democrats take the Senate. Hillary's estate tax plan is similar to Obama's.

Donald Trump, on the other hand, has said he wants to abolish the estate tax.

So, the moral of the story is elections do (and will) matter . .



QuotePixel.com

## Punography



I tried to catch some Fog. I mist.

When chemists die, they barium.

Jokes about German sausage are the wurst.

I know a guy who's addicted to brake fluid. He says he can stop anytime.

How does Moses make his tea? Hebrews it.

I stayed up all night to see where the sun went. Then it dawned on me.

I'm reading a book about anti-gravity. I can't put it down.

Why were the Indians here first? They had reservations.

Class trip to the Coca-Cola factory. I hope there's no pop quiz.

Energizer Bunny arrested: Charged with battery.

What do you call a dinosaur with a extensive vocabulary? A thesaurus.

Broken pencils are pointless.

I wondered why the baseball was getting bigger. Then it hit me.

I didn't like my beard at first. Then it grew on me.

## YOU SIGNED WHAT???

We are often asked if we have time to serve additional clients. We appreciate your business, and we would also appreciate your referrals. Please mention our name to your friends, relatives and business associates for estate planning, real estate, probate, business, condo law, land use, zoning, and riparian rights.

Check us out at: [www.wisclaw.com](http://www.wisclaw.com)

Thank you for your trust in Sweet & Maier, S.C.