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WHAT'S NEW IN ESTATE PLANNING 2026

1. FEDERAL ESTATE TAX

A. **$15 Million Federal Estate Tax Exemption:** Under the One Big Beautiful Bill Act which became law July 4, 2025, the amount that you can give during your lifetime or at your death and be exempt from federal estate tax has risen from $13,990,000 to $15 million. This is an increase over last year of $1.1 million or 7.2%.

1) **Indexed for Inflation**: Starting 2027, the exemption will be indexed for inflation.

2) **How Many Estates?** It is estimated that less than 0.1% of all U.S. estates (approximately 2,000 to 4,000 estates) exceeded $15 million in 2025.

3) **Effects of Inflation**:

1987 Exemption: $ 600,000
2026 Exemption: $15,000,000

What is the value of $600,000 in today's dollars:

Inflation: Average increase	2.7% (CPI)	$1,761,500
Exemption: Actual increase	8.5%	$15,000,000

Real Costs:	1987	2026	Inflation
Eggs	$0.78	$3.17	3.8%
Gas	$0.70	$4.90	4.8%
Home	$142,000	$850,000	4.9%
Tuition UC	$804	$14,436	8.18%

4) **Permanent:** The change is made permanent with no sunset date. Congress could still change the law.

B. **Calculate the Federal Estate Tax**: The tax is 40% of the amount over $15 million. It is due 9 months after death.

$16,000,000 -$15,000,000 = $ 1,000,000 x 40% = $400,000

C. **No Estate Tax: Marital and Charitable Deduction**

Transfers to a spouse or a trust for a spouse (QTIP) are deductible = tax free.
Transfers to charity are deductible = tax free.

D. **Transfer Exemption to Spouse – Portability**: A married couple has two exemptions, for a total of $30 million ($15 million x 2) to their beneficiaries tax free.

1) **Oops – I had to do something?** The exemption of a deceased spouse does not automatically transfer to the surviving spouse. The executor/trustee needs to file a Federal Estate Tax Return (Form 706) within nine months of the death and elect portability of the deceased spouse's unused exemption (DSUE).

   Do it Right! On the Form 706, be sure to itemize the assets owned at death and provide their fair market value. The DSUE election can be denied if this information is not fully disclosed. It is risky to use estimated values.

2) **Is it Too Late?** (IRS Rev Proc 2022-32) This revenue procedure provides a simplified method for certain taxpayers to obtain an extension of time to make a portability election. For a decedent dying after 12/31/2010 who was not required to file an estate tax return (gross estate within exemption) and was survived by a spouse, the period to elect portability is extended to the fifth (5^{th}) anniversary of the decedent's date of death!

   Example: Harry died June 20, 2021, and his gross estate was less than the estate tax exemption of $11.7 million for 2021. Wanda, his wife, did not file a federal estate tax return since it was not required to be filed.

   Wanda is 70 years old, and her estate is $7.6 million. Wanda is worried that her estate could be $16 million in 10 years if it grows 7% per year. If Wanda's estate is $16 million and is over the exemption by $1 million, there is an estate tax of $400,000. Is there a way for Wanda to get Harry's unused $11.7 million exemption?

   Solution: If Wanda files Harry's federal estate tax return before June 20, 2026 (the 5^{th} anniversary of Harry's death), then she can elect portability of Harry's unused exemption! Wanda will have Harry's $11.7 million plus her own exemption of $15 million. This means that she could transfer $26.7 million tax free. Wanda's federal estate tax would be zero.

Action Item: If a person died within the last five years survived by a spouse, consider filing a federal estate tax return to capture the exemption amount.

2. GIFT TAXES

A. **$15 Million Gift Tax Exemption:** Lifetime Gift Amount without paying taxes.

B. **$19,000 Annual Gift Tax Exclusion ($38,000 per couple):** Same as last year's exclusion. Gifts in excess of this amount require filing a gift tax return (Form 709). Gifts below the annual exclusion do not reduce your $15 million exemption.

C. **Unlimited Medical and Educational Expenses:** You can pay anyone's medical care and educational expenses if you make your payment directly to the provider of services. These transfers do not count against your Gift Tax Exemption.

D. **Trump Accounts for Children (IRC Section 530A)**: The new tax act establishes a new tax-deferred savings vehicle for minor children taking effect after July 4, 2026, which includes a one-time $1,000 government contribution for eligible children born in 2025-2028, $2,500 per year contributions by employers, and $5,000 total per year in contributions by others. Once a child is 18, no further contributions can be made, and distributions are not permitted prior to age 18.

   1) **Michael & Susan Dell $6.25 Billion Commitment**: This donation expands eligibility to 25 million children aged 10 and under who were born before 2025 (i.e., births2015-2024). The Dells' gift will deposit $250 into each eligible child's account. The child must live in a zip code where the median income is below $150,000. Note: @ 69.1% of U.S. family households earn less than $150,000 in late 2025.

   2) **Which Financial Institution Will Offer Trump Accounts**: You cannot open one today. The accounts are scheduled to launch on July 5, 2026. You can file IRS Form 4547 (which is not yet available) with your 2025 tax return to make the election and claim the $1,000 government see deposit for an eligible child. The form can be filed by the parent, legal guardian, or other relative opening the account.

E. **Section 529 Plans:** Section 529 plan earnings grow tax-free. Withdrawals are tax free for qualified education expenses such as K-12 (up to $20,000), higher education, and specialized training such as professional licensing exam, board certifications, and continuing medical education.

1) **Gifts:** You can contribute up to $19,000 per beneficiary per year to a 529 plan (college savings plan). Married couples can contribute $38,000 annually. No gift tax return is required. You can also “front load” five years of contributions in a single year ($95,000 individual; $190,000 married); and you must file a gift tax return (Form 709). Contributions are made with after-tax dollars and are not tax deductible.

2) **Roth IRA Rollover:** Up to $35,000 in lifetime unused funds can be rolled over to a beneficiary’s Roth IRA if the account has been open for 15 years.

F. **Carryover Income Tax Basis**: When you make a gift, you give your income tax basis (cost, plus improvements, less depreciation) to the recipient. In general, this means that your donee will continue to hold your capital gain or loss.

3. <u>GENERATION SKIPPING TRANSFER TAX (GST)</u>

A. **Direct and Indirect GST Transfers:** A direct GST transfer occurs when there is a transfer to a grandchild. An indirect GST transfer happens when there is transfer to a trust for child’s lifetime which later passes to grandchildren.

B. **$15 Million Generation-Skipping Tax (GST) Exemption – Not Portable:** This exemption is not “portable” to the surviving spouse. You can leave this amount “in trust” for your spouse to preserve the exemption.

C. **$19,000 Annual GST Tax Exclusion ($38,000 per couple):** The same as last year’s exemption.

4. <u>INCOME TAXES</u>

A. **Basis Step Up Planning**

1) **New Income Tax Basis at Death (IRC 1014):** Assets owned by a decedent receive a new income tax basis at death equal to the date of death value. This means that the decedent’s lifetime capital gain or loss is eliminated at death. However, retirement plans and annuities do not receive a new income tax basis.

2) **No Basis Step-Up: Irrevocable Trusts:** Assets owned by an “irrevocable trust” do not receive a new income tax basis at death since they are not “included” in the decedent’s estate.

3) **AB Trust: Lifetime Amendment of Existing Trust:** Since the federal estate tax exemption is $15 million ($30 million for married couples), what is the utility of the traditional AB trust?

a. **Reasons to Simplify an AB Trust:** As exemptions rise, the complex structure of an AB (or “Bypass” or “Decedent’s”) trust often becomes an unnecessary burden for estates under $30 million.

i. **Avoid “Step-Up in Basis” Loss:** Assets in a Trust B (Bypass) do not receive a second “step-up” in cost basis when the surviving spouse dies. If assets appreciate significantly, heirs may face massive **capital gains taxes** that far outweigh any estate tax savings.

Trust B (irrevocable)		**Trust A (revocable)**	
$ 5,000,000	FMV	$5,000,000	
$1,000,000	Basis	$5,000,000	New at Death
$4,000,000	**Gain**	**0**	

ii. **Reduced Administrative Burden:** Traditional AB trusts are mandatory and irrevocable upon the first spouse’s death, requiring separate tax IDs, annual tax filings, and formal accountings. Simplifying to a single trust removes these ongoing legal and accounting fees.

iii. **Surviving Spouse Flexibility:** In an AB structure, the surviving spouse has restricted access to the principal in Trust B. Simplification gives the survivor full control and "unfettered access" to all family assets.

iv. **Portability:** Federal law allows a surviving spouse to "inherit" the deceased spouse’s unused exemption (DSUE) simply by filing IRS Form 706, making the automatic split into a Bypass trust less necessary for tax protection.

b. **Arguments Against Simplification:** There are still strategic reasons to maintain an AB trust structure:

i. **Protection for Blended Families:** An AB trust ensures that the deceased spouse’s share eventually goes to their specific heirs (e.g., children from a prior marriage) rather than being subject to the surviving spouse's future whims or a new marriage.

ii. **Asset Protection:** Trust B is irrevocable, typically protecting those assets from the surviving spouse's future **creditors or lawsuits**.

iii. **State Estate Taxes:** While the federal exemption is $15 million, many states (e.g., Oregon, Massachusetts, Washington) have much lower exemptions (often $1M–$2M). An AB trust can still be vital for minimizing **state-level estate taxes**.

iv. **Growth Sheltering:** If an asset is expected to explode in value (e.g., a startup or high-growth real estate), placing it in Trust B locks in its value at the first death, allowing all future growth to pass to heirs completely tax-free, regardless of future exemption changes.

v. **Generation-Skipping Tax Exemption (GST):** Trust B gets the use of the $15 million generation-skipping tax exemption of the first spouse to die. In addition, the surviving spouse has the use of their own $15 million GST exemption.

c. **When to Use a Disclaimer Trust.** A **Disclaimer Trust** is often the "middle ground" for modern planning because it provides **flexibility**.

i. **Wait-and-See Strategy:** It allows the surviving spouse to decide *after* the first death whether a Bypass trust is actually needed based on the tax laws and asset values at that specific time.

ii. **9-Month Decision Window:** The survivor has nine months to "disclaim" assets into an irrevocable trust. If the estate is well under the exemption, they can choose to do nothing and keep everything in a simple revocable trust.

iii. **Best For:** Couples who have high trust in one another and want to avoid mandatory complexity today while remaining hedged against future tax law changes (such as a lower exemption sunset).

4) **AB Trust: Modification After First Death:**

Henry and Wendy had an AB Trust. When Henry died, his portion of the trust was transferred to Trust B, an irrevocable trust for the benefit of Wendy during her lifetime. His assets received a stepped-up basis to fair market value. However, when Wendy dies Trust B assets will not receive another step-up.

Wendy has outlived Henry by 25 years. Trust B has tripled in value and has substantial capital gain. The children will inherit low basis assets and will pay a lot of capital gain taxes when they sell the assets after Wendy's death. What can Wendy do?

a. **Petition for Modification** (Prob. Code §15403, §17200(b)(13)):
During Wendy's lifetime, the Trustee of Trust B can petition the Court to request a "modification" of Trust B. If the Court modifies Trust B to give Wendy a "general power of appointment," then the Trust B assets will be included in Wendy's estate and receive a stepped-up basis when she dies.

The "general power of appointment" can be a broad power that allows Trust B assets to be transferred to Wendy or a narrow power so that Trust B stays intact and must pass to the children at Wendy's death. Importantly, the power can be limited to that amount which will not cause a federal estate tax in Wendy's estate.

Consent of All Beneficiaries: Wendy and all the children need to sign Consents to the Petition.

B. **Income Taxation of Irrevocable Trusts**

The trustee of an irrevocable trust must file "fiduciary" income tax returns annually.

1) **Tax Rate:** The highest federal income tax rate is 37% for 2026 on taxable income over $16,000.

2) **Who is Taxed**? Accumulated income is taxed to the trust or estate. Distributed income is taxed to the beneficiary.

5. UNCLAIMED DIGITAL ASSETS LAW

California's new unclaimed digital assets law, primarily detailed in **Senate Bill 822 (SB 822)**, classifies digital financial assets (like cryptocurrency) as intangible property subject to the state's Unclaimed Property Law, effective **January 1, 2026**. The most significant aspect of the law is the protection against the *forced liquidation* of unclaimed assets.

A. **Key Provisions of the New Law**

i. **Dormancy Period:** Digital assets are considered "unclaimed" if the owner has not shown any activity or responded to communications for a period of **three years**.

ii. **Protection Against Liquidation:** Unlike some traditional assets that might be converted to cash, SB 822 requires companies (exchanges or custodians) to transfer the **exact digital asset type** and amount in its original form to the State Controller's Office. This preserves the potential for appreciation and avoids owners facing permanent losses if assets are sold during a market downturn.

iii. **Owner Notification:** Companies holding digital assets must make reasonable efforts to contact the owner between six and twelve months before the escheatment (transfer to the state) date. The notice must include a form allowing the owner to confirm their address or activity to restart the dormancy period.

iv. **State Custody and Sale:** The State Controller's Office holds the assets in a secure, licensed custody. The state is authorized to convert the assets to fiat currency, but only after a delayed period of **18 to 20 months** after filing the required report.

v. **Reclaiming Assets:** Rightful owners or their heirs can claim their property at any time; if the assets are still in digital form, they receive the original assets. If the state has converted them to cash, the owner receives the net proceeds from the sale.

vi. **Estate Planning:** This law works in concert with California's **Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA)**, which outlines how fiduciaries (like executors or trustees) can access and manage a deceased person's digital accounts based on instructions in wills or trusts.

6. <u>**END OF LIFE OPTION ACT**</u>

In 2025, California enacted **SB 403**, making the **End-of-Life Option Act (EOLOA)** a permanent state law by removing its original sunset clause, which would have caused the law to expire in 2031.

The law allows terminally ill, mentally competent adults with a prognosis of six months or less to live to request and self-administer aid-in-dying medication.

A. Utilization Statistics (2016–2024)

Since the law took effect on June 9, 2016, participation has steadily increased. As of late 2025, the most recent official data highlights:

1) **2024 Usage:** A record **1,591 people** received prescriptions, and **1,032 individuals** (approximately 65%) chose to ingest the medication and died. This represents a **6.5% increase** in usage from the previous year.

2) **Cumulative Impact:** From June 2016 through the end of 2023 approximately **6,516 prescriptions** were written, resulting in **4,287 deaths** from ingestion.

3) **2023 Usage:** 1,281 individuals received prescriptions, and 884 died following ingestion.

B. Key Provisions and Safeguards

1) **Waiting Period:** Under amendments that took effect in 2022, the mandatory waiting period between the two required oral requests is **48 hours** (reduced from the original 15 days).

2) **Self-Administration:** The patient must be physically and mentally capable of self-administering the drug orally, or through a feeding tube.

3) **Hospice Participation:** Approximately **94.8%** of those who used the law in 2024 were already receiving hospice or palliative care.

4) **Reporting Requirements:** Physicians must submit specific compliance forms to the California Department of Public Health (CDPH), which publishes an annual data report.

5) **Permanent Access:** The 2025 legislation ensures that qualifying Californians will have access to this option in perpetuity.

While legislative attempts (like SB 1196) were made in 2024 to expand the law to include non-terminal "grievous and irremediable" conditions or dementia, these proposals did not pass, and the law remains restricted to terminal illnesses with a **six-month prognosis**.

7. REAL ESTATE AND PROPERTY TAXES –PARENT CHILD EXCLUSION (PROP 19)

If you transfer California real estate to a child during your lifetime or at death, can the child continue to pay the same property taxes? Or will the property be reassessed at its current value and the property tax bill will increase?

A. Gifts or Deaths before February 16, 2021: The old Parent-Child Exclusion applied to all transfers. These transfers would NOT be reassessed:

1) The property is the parent's primary residence regardless of use by child.
2) Other (non-residence) property with assessed value up to $1 million.

B. Gifts or Deaths starting February 16, 2021: California real estate passing from Parents to Children IS reassessed, unless:

1) The property is the **parent's primary residence**; and

2) The child makes the property the **child's primary residence.**

3) **Partial Reassessment**: If the fair market value of the residence is $1 million ($1,044,586 for 2026) or more above the assessed value, then the excess amount will be reassessed.

C. Homeowner's Exemption:

1) **One Year Filing Deadline:** The child must file the homeowner's exemption. form within one year of death of death or lifetime transfer.

2) **Homeowner in Hospital or Healthcare Facility:** SB 520 (Seyarto), If the homeowner is not occupying the dwelling because they are confined to a hospital or other care facility, the homeowner is deemed to occupy that dwelling as their principal place of residence, provided that (1) the person would occupy the

dwelling if they were not confined to the hospital or other care facility, (2) the person intends to return to the dwelling when possible to do so, and (3) the dwelling is not rented to other than a related person.

D. Planning Opportunities

1) **Residence**: Methods to qualify for the Parent-Child Exclusion:

   a. **Include Right of First Refusal (Option to Purchase):** Parent includes language in trust to allow a child to buy the residence from trust with their own funds.

   b. **Non-Pro Rata Distribution**: If trust has enough assets to distribute. among the children, one child can take the residence as part of their share of the trust without triggering reassessment.

   c. **Parent-Child Equalization Loan**: If the trust does not have enough assets to make a non-pro rata distribution, the trustee can obtain a loan from third party secured by the residence and distribute encumbered residence to child and cash to others.

   Beware! If child "buys" out their siblings, the property will be reassessed (Bohnett v. County of Santa Barbara).

2) **Rental/Commercial Property**: Recalculate cash flow with increased property taxes or sell property, which now has a new income tax basis.

3) **Entity Rules:** Creation of LLC so that "entity rules" apply vs. parent/child exclusion.

4) **Original Transferor Rule**: Purchase property or receive trust distribution as co-owners and then put property in joint tenancy. If a joint tenant dies and property passes to an "original transferor," the property will not be reassessed.

E. **Recorder Notification Program (Govt code 27297.7)**

Under this new law, all California county recorders must mail notices within 30 days to parties listed on recorded deeds, mortgages, or deeds of trust of the recording of documents affecting the property.

The purpose is to alert property owners of potential title fraud and unauthorized changes to their property records.

You can sign up online for the free San Diego Owner Alert electronic notification at https://www.sdarcc.gov/owneralert/.

F. **Fires: Add Trust as "Additional Insured"**

You should add your trust as an additional insured in California to reduce the likelihood of claim denials and probate, ensuring seamless coverage for your property (now legally owned by the trust) by aligning insurance with your estate plan, especially crucial due to California's high-risk for wildfires and insurer issues, preventing gaps and costly legal battles after a loss. It keeps your policy valid, protects your assets for your heirs, and provides peace of mind.

1) Key Reasons to Add Your Trust

a. **Reduces Claim Denials & Gaps:** When you put a home in a trust, the trust becomes the legal owner; if your policy only lists you, there is a mismatch, creating grounds for denial.

b. **Avoids Probate:** Ensures insurance proceeds go directly to the trustee or beneficiaries without needing costly, time-consuming California probate court.

c. **Protects Against Wildfire Risks:** In California, with insurers pulling out, having your trust listed correctly is vital to avoid coverage gaps during disasters.

d. **Maintains "Insurable Interest":** California law requires the insured to have an "insurable interest" (ownership); adding the trust satisfies this for the legal owner.

2) What Happens If You Don't Add Your Trust?

a. **Delayed or Denied Claims:** The insurer can argue the policy does not cover the actual owner (the trust).

b. **Forced Probate:** Your family might have to go through probate court to access funds, defeating a major purpose of the trust.

c. **Legal Battles:** You may need to hire lawyers to fight for coverage, costing time and money when you are already dealing with a loss.

Action: Contact your insurance agent *now* to add the trust as an additional insured or additional interest (confirming with your insurer which is best) and get confirmation in writing.

8. **CASES**

A. **Son Disqualified as Executor for Mismanagement (<u>Estate of Bodmann</u>- PC 8402(a)(3), 8052(a))**

The Facts: Dad ran a small insurance agency for nearly 30 years. His Will named all seven of his biological children and stepchildren as executors. After Dad died, stepson demanded immediate access to business files held by the widow and he confronted her aggressively. Cooperation broke down and the business declined.

Court: Stepson mismanaged the estate asset and disqualified him from serving as executor.

How to Handle a Probate Estate: It is important for the executor of a probate estate to have experienced legal counsel to help avoid the problems that create family conflict and delay. Although attorney fees are uniform since they are based on the value of the probate estate, a good probate attorney can make the process smoother and faster.

Modernization of Probate: Over the years, and especially boosted by the Covid epidemic, the Probate process has been modernized. Electronic signing of document (Docusign) is allowed, documents can be filed digitally, the court publishes "probate notes" online before a hearing, and court hearings can be held by video conference with the Court.

Accelerating Court Hearing Dates: The Court has recently set shorter periods for the initial appointment of an Executor.

Electronic Communication with the Probate Referee: Attorneys can communicate about valuation of assets with the Probate Referee via email.

Relationships: A good probate attorney has a great deal of experience with family dynamics. The attorney can counsel the executor on foreseeing and avoiding obstacles in the future. A probate attorney has a network of advisors to assist the executor: Realtor, CPA, and financial advisor.

B. **The Risk of Amending a Trust Yourself (<u>Packard v. Packard</u>)**

The Facts: Dad's trust left the estate in equal shares to his two sons, Greg and Scott. Dad later amended the trust to give his home to Greg, an equalizing sum to Scott, and the residue split equally between the sons. In a handwritten change on the trust, which Dad initialed and dated, the equalizing sum to Scott was reduced. After Dad died, Scott filed a petition asking the Court to reform (change) the trust to fulfill his dad's intent to equalize the shares. Greg claimed that Scott's petition should cause him to lose his share under the "No Contest Clause."

The Court: Scott did not "contest" the trust by seeking the Court's reformation to reflect Dad's intent.

Takeaway: Do not let your trust wind up in Court by making handwritten changes. Have a formally prepared amendment to make changes.

9. **STRATEGIES TO AVOID LITIGATION**
With thanks to Attorney Christine M. Allen

Trust and estate litigation can occur after a death. Regardless of how well-drafted the estate plan, anyone with a claim can file a lawsuit. It is important for the trustee or executor to brainstorm with their attorney about the road ahead early in the administration to try to foresee and prevent problems. While it is uncomfortable to think about the problems that might occur, that is the key to preventing them.

A. Include a No-Contest Clause in the Trust

A no-contest clause penalizes beneficiaries who challenge the trust's validity without probable cause by disinheriting them if they lose. While it will not prevent lawsuits outright, it forces potential litigants to weigh the risk of losing their inheritance. Consider providing an amount for a person you anticipate may contest so that they have something to lose. Every time you amend a trust, the amendment should contain its own no-contest clause.

B. Require Beneficiaries to Object to Accountings within 180 Days

Your trust can provide that any objections to a trustee's accounting must be made within 180 days (6 months) rather than the 3 years normally provided under the law. This limits the time that the trustee is exposed to liability. Also, there is a specific notice that must be included with the accounting. An experienced attorney can assist in ensuring the notice is properly included.

C. **Use Clear and Precise Trust Terms**

Consider creating clear standards in the trust for things like trustee compensation and disinheritance.

1) **Trustee Fee:** Under California law and most trusts, a trustee is entitled to "reasonable" trustee fees. However, that standard could lead to disputes based on its subjectivity. One option is to provide an objective amount, such as a trustee fee of 1% of the Trust estate per year for trustee services.

It is important for a trustee to maintain a log of their duties/time to justify their fee.

2) **Disinheritance**: Consider including a specific disinheritance clause that identifies individuals by name who are not receiving trust assets. This is particularly important for excluded close relatives such as a current or future spouse, children, grandchildren, and any others who may naturally be in line to inherit or who may be otherwise expecting something. This can make plain a trustor's intentions and discourage those individuals from later suing.

D. **Leave a Separate Handwritten Letter**

Leaving a separate handwritten letter explaining your decisions about to whom you have decided to leave your assets can assist your future trust beneficiaries and trustee in the event someone challenges your trust, as it may serve as evidence of your intent, which is often the crux of trust litigation disputes.

E. **Serve a 16061.7 Notification: 120 Days**

Following the death of a trust settlor or upon the incapacity of a trust settlor, a trustee must, under California Probate Code Section 16061.7, serve a notification on the trust beneficiaries and the trust settlor's heirs-at-law, meaning those who would inherit if there was no trust in existence.

1) Serving this notification triggers a 120-day period within which beneficiaries can contest the trust.

2) By starting this clock, you create a clear deadline for disputes, ensuring that challenges are addressed promptly rather than lingering for years. It is best to work with an attorney to ensure this notification is properly prepared, and that proof of the service of the document is made and maintained. Once the deadline has passed, if an individual files a lawsuit to challenge the Trust, the statute of limitations can be raised as a defense to the lawsuit, and often, a demurrer can be filed to stop the case from proceeding right at the outset.

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