

**FENSTER & LEWIS, LLC**  
ATTORNEYS AT LAW  
5522 BROADWAY STREET  
LANCASTER, NEW YORK 14086  
(716) 685-4167  
FAX: 685-2664  
E-MAIL: DDFENSTER@VERIZON.NET

DAVID D. FENSTER  
BEVERLY A. LEWIS

LEGAL ASSISTANTS  
MARYANN T. MORRISSEY  
DENISE A. KRAFT

---

## WE'VE MOVED!

In December, 2004, we moved our office to 5522 Broadway in the Village of Lancaster. Fortunately, our phone numbers stayed the same. We now have an entire house, which was recently renovated for our use. The office is easy to find and there is a convenient parking space for clients right at the front door.

## WE CHANGED OUR NAME

There's an old saying: "The more things change, the more they stay the same." In December 2004, my wife, Beverly A. Lewis, rejoined the firm. Beverly was an attorney with the firm until 1998, when she took a leave of absence to raise our four children. David P. Lazenski is no longer with the firm, as he has taken a position at another law firm. So, the firm name has returned to the pre-1998, "Fenster & Lewis."

## OUR STAFF

**MaryAnn T. Morrissey** has been with the firm for nine years. MaryAnn is a legal assistant who devotes all of her time to estate and trust administration.

**Denise A. Kraft** has been with the firm for six years. Denise is also a legal assistant, and she coordinates all of our estate planning work.

**Vera M. Hodge** joined the firm in October 2004 as an administrative assistant in our Estate Administration Department.

**Katherine E. Rzadkiewicz** is our new receptionist. Kate will also be assisting Denise with estate planning clients.

**Douglas R. Trumpler** is an attorney who handles our real estate closings. Though not part of the firm, Doug is only a few steps away in his office upstairs.



## ESTATE TAX PLANNING REMAINS UNCERTAIN

High net worth clients continue to face a “moving target” with estate and gift taxes. For 2005, the federal estate tax “exemption” is \$1,500,000, with a maximum tax rate of 47%. The exemption and rate are scheduled to change as follows in the coming years:

<u>Year</u>	<u>Exemption</u>	<u>Max Rate</u>
2005 . . . . .	1,500,000 . . . .	47%
2006 . . . . .	2,000,000 . . . .	46%
2007 . . . . .	2,000,000 . . . .	45%
2008 . . . . .	2,000,000 . . . .	45%
2009 . . . . .	3,500,000 . . . .	45%
2010 . . . . .	<i>TAX REPEALED</i> . . . .	0%
AFTER 2010 ..	1,000,000 . . . .	55%

As shown in the chart above, the federal estate tax will be repealed for *2010 only*. After 2010, the estate tax will return and the exemption will revert to \$1,000,000. It appears certain that Congress will revisit this tax law well before 2010. Many commentators feel, however, that an extension of the federal estate tax repeal beyond 2010 is unlikely.

The federal legislation that reduced the estate tax also repealed the “State Death Tax Credit” as of 2005. The SDTC allowed states to share in a portion of the federal estate tax. The repeal dealt a blow to many cash-strapped states who relied on their share of federal estate taxes.

New York State hit back by enacting legislation that collects its own estate tax *in addition to* the federal tax. To make matters worse, New York’s estate tax begins at \$1,000,000 (despite the higher federal threshold), and kicks-in with a marginal tax rate of 41% for estates between \$1,000,000 and \$1,100,000!

## NURSING HOME COSTS

Long-term care and nursing home costs continue to increase at an alarming rate. The cost at area nursing homes now runs between \$6,000 and \$8,000 per month ... or \$72,000 to \$96,000 per year!).

We can use our elder law experience to recommend asset protection strategies that can avoid complete depletion of your estate in the event long-term care becomes necessary. The sooner these issues are addressed, the better your chances of protecting assets.

### PLANNING CONSIDERATIONS

Married clients who have Wills which include a “Credit Shelter Trust” should review their estate plan. The typical formula clause in a Will transfers the exemption amount to a “Credit Shelter Trust” for the benefit of the surviving spouse. As the exemption amount increases, a larger proportion of the estate will be transferred to, and sheltered by, this trust. For some clients, more assets may be transferred to the trust than are necessary to avoid estate taxes.

Elderly single or widowed clients with taxable estates between \$1,000,000 and \$1,200,000 may want to consider tax avoidance techniques to reduce or eliminate the possibility of New York State estate tax.

In light of the new minimum distribution rules, we strongly recommend that the beneficiary designations on all retirement plans be carefully reviewed. This is especially true if the beneficiary is either a “Credit Shelter Trust” or “Estate.”

Please call us if you have questions.