

Winter 2014

Tax and Estate Planning Update

Federal Estate Tax:

The federal estate tax exemption for the 2014 tax year is \$5,340,000. If a decedent's taxable estate (assets owned at death plus lifetime taxable gifts) exceeds this amount, the excess will be taxed at a flat rate of 40%. For married couples the exemption can total \$10,680,000 in 2014, because the option of "portability" can be used at the first death to transfer any unused portion of the deceased spouse's exemption to the surviving spouse. This opportunity arises when the estate of the spouse who dies first is smaller than the exemption, or assets pass tax-free to the surviving spouse through the marital deduction. Portability must be elected on a timely-filed federal estate tax return filed for the spouse who dies first.

Connecticut Estate Tax:

There are no changes to the Connecticut estate tax exemption, which is \$2,000,000. If a decedent's taxable estate exceeds \$2,000,000, the excess is taxed at marginal rates between 7.2% and 12%. The Connecticut taxable estate is composed of lifetime taxable gifts made after 2004 plus assets owned at death. Qualified transfers to a spouse or to charity are not taxable. Connecticut does not offer the portability option. Note: the Connecticut estate tax is deductible for federal estate tax purposes.

Gift Tax:

For 2014, the federal and Connecticut gift tax annual exclusions remain unchanged at \$14,000 per recipient. One spouse may give up to \$28,000 to each recipient if the other spouse consents to "split gifts" on a gift tax return. For 2014, gifts that exceed the annual exclusion incur no federal gift tax until cumulative excess gifts reach the federal lifetime exemption of \$5,340,000, but these gifts also require a gift tax return to be filed. The lifetime exemption for Connecticut gift tax purposes is \$2,000,000, but only gifts made after 2004 count toward that exemption.

Certain gifts avoid tax without using the annual exclusion or the lifetime exemption. Non-taxable gifts include tuition payments made directly to qualifying educational institutions and medical payments made directly to healthcare providers.

Probate Court Update:

Last summer marked another milestone in the efforts undertaken over the last few years to improve Connecticut's probate court system. The first step involved consolidation of the courts from 117 to 54. More recent was the enactment of the new Probate Court Rules of Procedure, which went into effect on July 1, 2013. The new rules were designed to clarify and standardize the procedures to be used in the courts for all matters over which the probate court has jurisdiction, including the settlement of estates. The new rules have not dramatically changed the way estate matters are handled by the probate courts, but the changes have certainly had an impact on the estate settlement process. One effect of the consolidation of the courts is that the workload of many courts has increased, which sometimes extends the period before the court appoints the executor. We advise our clients on the use of other planning devices to enable prompt access to funds after death in order to pay funeral expenses or continue support of their family.

After the executor is appointed, the new rules continue to impose the same obligations on the executor to file an inventory of assets, a list of claims made and debts paid, and a final account itemizing income received and expenses paid. But executors are now required to send copies of those documents when filed to all beneficiaries named in the Will. This may be good for the individuals or charitable organizations who are named as residuary beneficiaries (and whose gifts will be affected by the debts and expenses incurred by the estate). However, under the new rules, the beneficiaries of specific bequests (even relatively minor cash gifts) must receive a copy of the inventory and the final account, even if their bequests have been paid and they have no financial interest in the residuary estate. Furthermore, if a gift is made to a charitable organization in a Will, the State's Office of the Attorney General must receive notice of the court proceeding. This amount of public exposure for one's personal financial affairs after death is much more than many people desire.

To minimize the need for probate court notices, there are ways to choose beneficiaries without naming them in your Will. One of the most comprehensive methods is the use of a revocable trust. Assets which pass by beneficiary designation and assets that are titled jointly will also pass outside of probate. All of these alternatives have consequences that require thoughtful planning. None of these methods removes assets from the estate tax base, nor do they reduce the probate court fee (which is based on the total assets for estate tax purposes—even when there is no estate tax due).

We carefully customize estate plans to our clients' individual circumstances and personal objectives. If you would like to discuss how the estate tax laws or the new probate court rules affect your estate plan, or if it is time to have your documents reviewed because of changes in family circumstances, please contact us.

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