



## June 6, 2022 - Connecticut and Federal Estate Taxes Sing in Harmony

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For the past decade, the federal unified transfer tax system has provided an amount that anyone can pass either by gift or at death to persons other than a spouse free of tax. This amount is called the “applicable exclusion amount.”<sup>1</sup> The applicable exclusion amount is actually the sum of two other defined numbers: (i) the “basic exclusion amount”<sup>2</sup> plus (ii) the “deceased spousal unused exclusion amount.”<sup>3</sup>

The basic exclusion amount was \$5 million in 2010 and is adjusted for inflation every year by statute. Since the 2017 Tax Cuts and Jobs Act,<sup>4</sup> the basic exclusion amount is temporarily doubled. In 2022, the basic exclusion amount as adjusted for inflation is \$12.06 million. In 2026, this doubling ceases, and the basic exclusion amount will revert to \$5 million, adjusted for inflation. Most practitioners expect the 2026 basic exclusion amount to equal between \$6.5 million to \$7 million.

That 2017 federal change left Connecticut’s then \$2 million estate and gift tax exemption far behind. Pressure mounted in Connecticut to harmonize the Connecticut estate and gift tax with the federal estate and gift tax, so starting in 2018, Connecticut’s estate and gift tax exemption began increasing as well.<sup>5</sup> In 2022, Connecticut’s exemption is \$9.1 million, and in 2023, Connecticut’s exemption was already slated to match the federal basic exclusion amount.<sup>6</sup>

Nevertheless, there were nagging concerns. The Connecticut statute clearly says “federal basic exclusion amount,” which federal law clearly defines as an amount adjusted annually for inflation, and an amount which is twice the normal amount until 2026. However, this being Connecticut, practitioners wondered if the Connecticut legislature meant what it said, and whether it really didn’t mean to incorporate the doubled federal basic exclusion amount until 2026. Adding to the confusion, the companion Connecticut statute setting forth estate tax return filing requirements states that in 2023, when the federal basic exclusion amount of more than \$12 million will effectively guide the imposition of Connecticut estate and gift tax,<sup>7</sup> a Connecticut estate tax return will be required to be filed with the Commissioner of Revenue Services if the Connecticut taxable estate is over \$5.49 million.<sup>8</sup> Why this difference?

Thankfully, the dissonance is eliminated by Connecticut Public Act No. 22-110, signed into law on May 27, 2022, and effective on October 1, 2022.

This new Public Act clarifies that for Connecticut estate and gift tax purposes, “federal basic exclusion amount” means that dollar amount, published annually by the Internal Revenue Service, at which a decedent’s estate would be required to file a federal estate tax return, or above which a donor would owe federal gift tax.<sup>9</sup> This clearly incorporates the federal basic exclusion amount as adjusted for inflation annually, and as it is currently doubled. The Public Act also changes the reference in CGS §12-392(b)(3)(J) from \$5.49 million to the federal basic exclusion amount, thus harmonizing the Connecticut estate tax filing requirement with the threshold for the applicability of the Connecticut estate tax.

Please contact your Murtha Cullina estate planning attorney to discuss the planning implications of all federal and state estate and gift taxes for your estates.

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[1] IRC §2010(c)(2).

[2] IRC §2010(c)(3)

[3] IRC §2010(c)(4). The deceased spousal unused exclusion amount (“DSUEA”) is only available to a surviving spouse whose predeceased spouse left him or her such deceased spouse’s unused basic exclusion amount by filing a federal estate tax return. The DSUEA will not be discussed further here.

[4] Pub. L. No. 115-97

[5] June Sp. Sess. PA 17-2; the General Assembly continued to amend C.G.S Sec. 12-392 until it assumed its current form after P.A 18-81.

[6] CGS §12-391(g)(9). Connecticut doesn't actually have an exemption per se, but rather an amount up to which the rate of tax is zero.

[7] Connecticut has had its current version of the gift tax since 2005. Post-2004 Connecticut taxable gifts affect the computation of Connecticut estate tax.

[8] CGS §12-392(b)(3)(J).

[9] Connecticut Public Act No. 22-110, Sections 15, 16 and 17.



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