

NEWS ALERT

TRUSTS & ESTATES



Let's All Wait Until After 2023 to Die in Connecticut

By Suzanne Brown Walsh | February 21, 2018

Until the passage of the 2017 Tax Cuts and Jobs Act, the federal applicable exclusion amount for the estate of a person dying in 2018 was scheduled to be \$5.6M. The federal applicable exclusion amount sets (i) the applicable exclusion amount available at death, (ii) each person's lifetime gift applicable exclusion amount, and (iii) each person's generation-skipping transfer ("GST") tax applicable exclusion amount. So, before the new tax act, a married couple with proper planning would "only" have been able to transfer a combined total of \$11.2M free of federal estate, gift and GST tax to their beneficiaries in 2018 either by gift or at death. Then, in stepped Congress and the [2017 Tax Cuts and Jobs Act](#), which doubled the federal applicable exclusion amount to \$11.2M from 2018 to 2026¹.

By now, this is news to few people. What may be surprising is how it affects the increased estate tax exemption that the Connecticut Legislature approved as part of the 2017 Budget Act. As described in our October 27, 2017 [client alert](#), beginning in 2018, the Connecticut estate and gift tax exemption increases over a three-year period from \$2M to the federal estate tax exclusion, and the marginal rate schedule for estate and gifts was changed, as shown in the following table:

Connecticut also made conforming changes in requirements for filing tax returns with the Probate Court and releasing estate tax liens.

Value of Taxable Estate or Gift	Marginal Rates		
	Governor's Bill		
	2018	2019	2020
Up to \$2,000,000	None	None	None
\$2,000,001 to \$2,600,000			
\$2,600,001 to \$3,600,000	7.2%	7.8%	
\$3,600,001 to \$4,100,000	7.8%	8.4%	
\$4,100,001 to \$5,100,000	8.4%	10.0%	
\$5,100,001 to federal threshold	10.0%	10.0%	10.0%
Federal threshold to \$6,100,000	10.4%	10.4%	10.4%
\$6,100,001 to \$7,100,000	10.4%	10.4%	10.4%
\$7,100,001 to \$8,100,000	10.8%	10.8%	10.8%
\$8,100,001 to \$9,100,000	11.2%	11.2%	11.2%
\$9,100,001 to \$10,100,000	11.6%	11.6%	11.6%
Over \$10,100,000	12.0%	12.0%	12.0%

¹ The IRS has not officially calculated and announced the new federal applicable exclusion for 2018 because of a change in how the Consumer Price Index (CPI) is computed. Eventually, it is expected to be confirmed at \$11.2M.

The cap on the maximum Connecticut estate tax imposed on the estates of persons dying on or after January 1, 2019, and the gift tax imposed on taxable gifts made after January 1, 2019, was reduced from \$20M to \$15M.

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So, in 2018, we have a \$2.6M Connecticut estate and gift tax exemption, and in 2019, it rises again to \$3.6M which is welcome news to many residents.

What happens to the Connecticut exemption in 2020, though, became unclear after the federal tax changes were enacted. As one can see, the new estate and gift tax table refers to the federal exclusion, which the 2017 Budget Act defined by reference to the inflation-adjusted amount annually calculated by the IRS. As a result, the Connecticut law now would exempt from tax amounts up to \$11.2M in 2020, instead of one-half that amount as the legislature seems to have intended.

Handily, Governor Malloy's new [bill](#) responding to the 2017 Tax Cuts and Jobs Act addresses this issue by proposing the following new phase-out table:

Value of Taxable Estate or Gift	Marginal Rates					
	Governor's Bill					
	2018	2019	2020	2021	2022	2023
Up to \$2,600,000	None	None	None	None	None	None
\$2,600,001 to \$3,600,000	7.2%					
\$3,600,001 to \$4,100,000	7.8%					
\$4,100,001 to \$5,100,000	8.4%	8.4%	10.0%	10.8%	11.2%	11.6%
\$5,100,001 to \$6,100,000	10.0%	10.0%				
\$6,100,001 to \$7,100,000	10.4%	10.4%	10.4%	10.8%	11.2%	11.6%
\$7,100,001 to \$8,100,000	10.8%	10.8%	10.8%	11.2%	11.6%	12.0%
\$8,100,001 to \$9,100,000	11.2%	11.2%	11.2%	11.6%	12.0%	12.0%
\$9,100,001 to \$10,100,000	11.6%	11.6%	11.6%	12.0%	12.0%	12.0%
Over \$10,100,000	12.0%	12.0%	12.0%	12.0%	12.0%	12.0%
Federal Basic Exclusion	12.0%	12.0%	12.0%	12.0%	12.0%	12.0%
Over Federal Basic Exclusion	12.0%	12.0%	12.0%	12.0%	12.0%	12.0%

Thus, the proposal extends the phase-in period for the larger federal exclusion, clarifying that the Connecticut exemption will not equal the new, larger federal exclusion until 2023. This in turn means that the Connecticut exemption is slated to return to \$5.0M in 2026, in accordance with the federal law.

Please contact your Murtha Cullina estate planning attorney to discuss the impact of these developments on your estate plan in more detail.

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