REID & RIEGE
ATTORNEYS

Estate Planning & Settlement Newsletter

TAX AND ESTATE PLANNING UPDATE | **JANUARY 2021**

2021 FEDERAL AND CONNECTICUT ESTATE TAX AND GIFT TAX

The federal estate tax exemption for 2021 is $11,700,000, an increase of $120,000 from 2020. If a decedent's taxable estate exceeds this amount, the excess will be taxed at a flat rate of 40%. The exemption for married couples can total $23,400,000, 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.

The Connecticut estate tax exemption for 2021 is $7,100,000 and is scheduled to rise to $9,100,000 in 2022, and thereafter to match the federal estate tax exemption. Notably, Connecticut still does not offer the portability option. If a decedent's taxable estate exceeds the exemption amount, the excess is taxed at marginal rates between 10.8% and 12%. Estates with federal estate tax liability can deduct Connecticut estate tax, which reduces the effective rate of the Connecticut estate tax by 40%.

The federal and Connecticut gift tax annual exclusions remain at $15,000. One spouse may give up to $30,000 to each recipient if the other spouse consents to "split gifts" on a gift tax return. Gifts exceeding the annual exclusion incur no federal gift tax until cumulative excess gifts reach the federal lifetime exemption of $11,700,000, but these gifts also must be recorded on a gift tax return. The lifetime exemption for Connecticut gift tax purposes will increase as the Connecticut estate tax exemption increases. 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.

THE FUTURE OF THE FEDERAL ESTATE TAX EXEMPTION

Federal law significantly increased the federal estate tax exemption beginning in 2018. In 2026, the exemption is scheduled to decrease to $5.49 million with an inflation adjustment. New tax legislation may change this scheduled decrease, possibly lowering the exemption sooner than 2026. A change to the exemption, if any, will be the subject of a future newsletter. In the meantime, the current exemption amounts may offer an opportunity for you to make gifts to use some or all of your available exemptions. Please contact us if you would like to discuss making gifts as part of your estate planning.

OUR TEAM

We are pleased to announce that John Paul ("JP") Callahan was named a Stockholder of the firm, effective January 1, 2021.

We are also pleased to celebrate David Sullivan's 25th anniversary with the firm. David is a Certified Trust and Financial Advisor (CTFA) and Director of our Trust & Wealth Management practice. David and his team oversee the administration and management of trusts when our attorneys serve as a trustee for clients. If you have questions regarding trustee choices, or need assistance managing a family trust, please contact the Reid and Riege attorney with whom you usually work or David at (860) 240-1022 or dsullivan@rrlawpc.com.

LIVING WILLS & COVID-19

A Living Will is often misunderstood as a document which authorizes "pulling the plug" or withholding otherwise appropriate lifesaving treatment. Some people fear that treatment will be withheld, whereas others fear treatment will be unduly prolonged. In reality, a Living Will is your statement directing health care providers to withhold life support measures if you are at the end of your life due to a terminal condition or in a persistent vegetative state and if continuing treatment would be futile. A Living Will is also frequently confused with a "DNR" (Do Not Resuscitate Order). A DNR is a medical order written only by your doctor and instructs health care providers not to perform cardiopulmonary resuscitation if your heart stops or you stop breathing. Generally speaking, you do not need a DNR and cannot have one unless you do not wish to have CPR and a doctor has written the order. Because a Living Will applies only in narrow circumstances, without knowing your specific care wishes, your health care representative could be faced with having to make decisions for you over a long period of time and well before the Living Will is activated. The more your health care representative knows about your wishes, the easier that road can be, and the more control and peace of mind you can have.

COVID-19 has raised greater awareness of the importance of being proactive in thinking about and discussing one's health care wishes. Since a Living Will applies only where treatment has been deemed futile, and because COVID-19 is a treatable illness, a health care provider would not be prohibited from implementing a ventilator as a life saving measure to treat a COVID-19 patient simply because the patient's Living Will directs withholding artificial respiration, unless the patient or the patient's health care representative declines the use of a ventilator or the patient was already suffering from a terminal condition or in a persistent vegetative state prior to contracting COVID-19.

The decision to accept or withhold any treatment should be based upon a person's informed decisions which are aligned with their values and goals. Sharing the answers to the following questions can be helpful to your health care representative in making decisions for you when you cannot: What makes life worth living? What is important to me? What would be a fate worse than death? What is a good death? Communicating your health care wishes and preferences can go a long way in reducing the strain for your health care representatives and family if they are in the position of deciding whether to continue invasive care.

BENEFICIARY DESIGNATIONS FOR HEALTH SAVINGS ACCOUNTS

For those who have a health savings account ("HSA"), we recommend that you name a beneficiary of the account. If you name a spouse as beneficiary of the account, the spouse will be able to continue using the account as if it were his or her own HSA account. If you name any other person as beneficiary of the account, the account will no longer be an HSA and the beneficiary will be subject to income tax on the account balance. However, the amount included in the beneficiary's income can be reduced by payments for your final "qualified medical expenses" which are made within one year after death. If you fail to designate a beneficiary of the account, the plan rules may dictate who the beneficiary is and the entire account will likely be subject to income tax after your death.

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

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**David is a Certified Trust and Financial Advisor; he is not an attorney.*

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