

WHAT IS THE MARITAL ESTATE TAX DEDUCTION

“Accumulating wealth is the first order of business, but you must also preserve your wealth for the benefit of the next generation and beyond.”



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You must be aware of the transfer taxes that you may face when you are planning your estate.

Accumulating wealth is the first order of business, but you must also preserve your wealth for the benefit of the next generation and beyond.

In this paper we will look at the federal estate tax, the federal gift tax, the Connecticut state estate tax, and the marital estate tax deduction.

FEDERAL ESTATE TAX

There is an estate tax on the federal level that is applicable in all 50 states. Everyone does not pay the tax, because there is a relatively large credit or exclusion.



The exclusion is the amount that you can transfer to others free of taxation. Anything that you transfer beyond the exclusion amount is potentially taxable.

At the time of this writing in 2014, the federal estate tax

exclusion is \$5.34 million. This figure may seem like an arbitrary one, it came about after a series of inflation adjustments. A base of \$5 million was put into place for the 2011 calendar year, and this figure has been adjusted to account for inflation each year since then.

There are no mandates pending that would change the amount of the federal estate tax exclusion, but you should always be aware of the lay of the land, because tax laws can always change. The White House has actually proposed a reduction in the federal estate tax exclusion, but that has not been adopted.

The maximum rate of the federal estate tax is 40 percent.

FEDERAL GIFT TAX

It would be logical to conclude that you could simply give gifts to your loved ones while you are living to avoid the estate tax. This was possible after the estate tax was first enacted in 1916, but a gift tax was subsequently enacted to close this loophole.



The gift tax and the estate tax are unified under the tax code. As a result of this unification, the \$5.34 million exclusion is a unified lifetime exclusion. It applies to lifetime gifts that you give coupled with the value of the estate that you are passing on to your heirs. The gift tax also carries a 40 percent top rate.

UNLIMITED MARITAL DEDUCTION

Now that we have provided the necessary background information about these federal transfer taxes, we can look at the unlimited marital deduction. Because of the marital deduction, you can leave unlimited assets to your spouse without incurring any estate tax liability.



However, to take advantage of the unlimited marital deduction, your surviving spouse must be a citizen of the United States.

There is a logical rationale behind this stipulation. The Internal Revenue Service is not being left out in the cold because of the existence of the unlimited marital deduction. What would happen if you left a taxable estate to your spouse tax-free? The answer is that your surviving spouse would be

in possession of an estate that would be subject to the estate tax after he or she passes away. This is why the powers-that-be are not particularly concerned about the impact of the unlimited marital deduction.

On the other hand, consider the scenario that would exist if the unlimited marital deduction was afforded to a spouse that was a citizen of another country. This person could simply go back to his or her country of citizenship with a tax-free inheritance in hand. The surviving spouse could live out his or her life in this country, and the American tax man would never be able to levy an estate tax.

CONNECTICUT STATE ESTATE TAX

We have a state-level estate tax in the state of Connecticut. The exclusion for the Connecticut estate tax is \$2 million. This is considerably less than the federal estate tax exclusion, so you could be exposed to the state-level estate tax even if you are exempt from the federal tax.

There is an unlimited marital estate tax exclusion on the state-level, so you can leave unlimited assets to your spouse free of the Connecticut estate tax.

SUMMARY

There is a federal estate tax, a federal gift tax, and a Connecticut state estate tax. The taxes can be levied if you are transferring assets to anyone other than your spouse.

There is an unlimited estate and gift tax marital deduction. You can transfer any amount of money and/or property to your spouse free of taxation, regardless of when the transfers take place.

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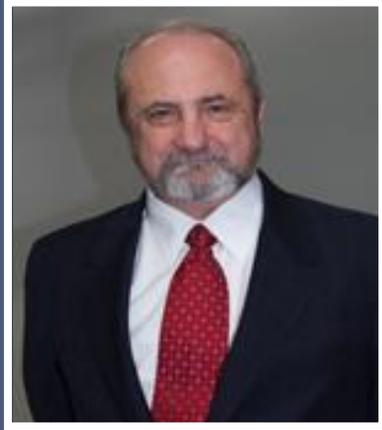
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About the Author

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Barry D. Horowitz is a founding partner in the law firm of Nirenstein, Horowitz & Associates, P.C. He received his diploma from the Loomis Chaffee School and his Bachelor of Arts from Bennington College, where he dual majored in philosophy and music.

Mr. Horowitz was awarded his Juris Doctor degree with honors from the University of Connecticut School of Law. While attending law school, Mr. Horowitz received the American Jurisprudence Award in Legal Ethics and the Nathan Burkan Award.

After graduation from law school, Mr. Horowitz continued his legal education at New York University School of Law where he received a Post Doctorate Law Degree in Taxation. He has also recently received a national achievement award.

Mr. Horowitz is admitted to practice before all the state courts in the State of Connecticut and the United States District Court. He is a member of the Hartford County Bar Association, a charter member of the American Academy of Estate Planning Attorneys, and has recently received the American Academy Award. Mr. Horowitz is also an active member of the Connecticut Bar Association where he is a member of the Elder Law Section, the Estate Planning and Probate Section, and the Professional Ethics Committee. Mr. Horowitz practices exclusively in the area of Estate Planning where he has earned a reputation as a dynamic and entertaining speaker. He also has recently published a book entitled "Guiding Those Left Behind in Connecticut."

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