

WHAT IS A QUALIFIED DOMESTIC TRUST IN CONNECTICUT?

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BARRY D. HOROWITZ
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There are many different estate planning tools that can be utilized to address various different respective sets of circumstances. One of these focused legal devices is the qualified domestic trust.

To understand the value of a qualified domestic trust, you have to digest some background information about federal transfer taxes. We have a federal estate tax that can be applied on transfers to your heirs after you pass away. It is applicable on transfers that exceed \$5.43 million in value. This figure is

called the federal estate tax exclusion.

The \$5.43 million exclusion is in place for the rest of 2015, but next year there could be an adjustment to account for inflation.

In addition to the estate tax, there is also a federal gift tax. The gift tax was enacted to stop people from giving gifts to avoid the estate tax. The exclusion is a unified exclusion that applies to lifetime gift giving along with postmortem asset transfers.

The maximum rate of the gift/estate tax is 40 percent at the present time.

MARITAL TRANSFER TAX DEDUCTION



The federal transfer taxes can be applied on transfers to anyone other than your spouse. As long as you are married to a citizen of the United States, you can use the unlimited marital deduction to

transfer unlimited assets tax-free.

A person who is married to a citizen of another country cannot use the exclusion because the surviving spouse could return to his or her home country with a tax-free inheritance. The IRS would never be able to collect the death tax.

The tax man is not left out in the cold if the unlimited marital deduction is used by a citizen, because the estate tax would still be looming after the death of the surviving spouse.

QUALIFIED DOMESTIC TRUSTS

Now that you understand the lay of the land with regard to the estate tax and non-citizen spouses, we can explain the value of qualified domestic trusts. This type of trust can provide a solution if you are a high net worth individual who is married to a citizen of another country.

The way that it works is you fund the trust, and your spouse would be the



first beneficiary of the trust. You would name secondary beneficiaries to assume ownership of the assets that are left in the trust after the death of your spouse.

If you die first, the trustee that you name in the trust declaration would be able

to distribute the earnings from the trust to your surviving spouse for the rest of his or her life. These distributions would not be subject to the estate tax, but regular income taxes would apply.

It would be possible to give the trustee the latitude to distribute portions of the principal, but any distributions from the principal would be subject to the estate tax. However, it is possible to petition the IRS to grant a hardship exemption.

SUMMARY

Federal transfer taxes can take a heavy toll on your legacy if you have been particularly successful from a financial standpoint. These taxes carry a 40 percent top rate, and this is a hefty percentage that can significantly erode



the wealth that you are passing along to your loved ones.

In addition to the federal transfer taxes, there are 15 states in the union that have state-level estate taxes. We practice law in Connecticut, and there is a

Connecticut state estate tax that carries an exclusion of just \$2 million.

Fortunately, there are estate tax efficiency strategies that can be implemented. A qualified domestic trust can provide a solution for people who are married to non-citizens, but there are other tax efficiency tools that can be used by people who are not in this situation.

The ideal course of action will depend upon the circumstances. Contact a licensed estate planning attorney if you would like to discuss your personal situation with a professional. Your attorney will gain an understanding of your position, answer your questions, and make the appropriate recommendations.

Many law firms will offer no obligation case evaluations, so you can get the ball rolling without taking any financial risks.

REFERENCES

Internal Revenue Service

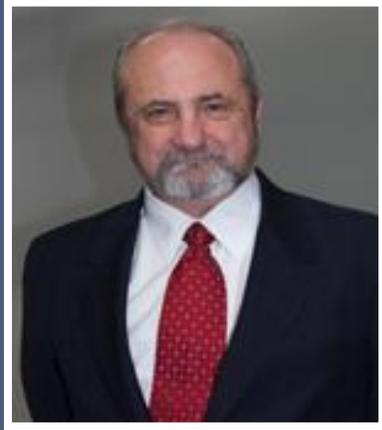
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About the Author

Barry D. Horowitz



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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