



July 2018

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Freedom

We celebrate the birth of our country each July 4th. The day off allows us time to contemplate the blessings and freedoms this country provides, and to honor those who helped to achieve and defend those freedoms. Most of us are familiar with the freedom of the press and freedom of religion, among others. We can now add another to that list. Due to recent changes in federal and CT estate tax laws, more than 99% of Connecticut residents now have the freedom to dispose of their assets, during life or upon death, however they choose without incurring a tax.

When I first began my career, the value of assets held by a decedent at the time of death (the “estate”) which was exempt from federal estate tax taxation was \$60,000. At that time, virtually every estate also paid a Connecticut estate tax. Since then, the federal and CT estate tax provisions have been modified more than a dozen times, and the exemption amounts have increased dramatically. In recent years the exemptions have changed so often that most clients are not aware of the current exemption amounts. Currently, the federal estate tax exemption exceeds \$11 million dollars. The Connecticut estate tax was recently modified to provide a maximum exemption in excess of \$9 million (phased in over a period of years). According to government estimates, less than a fraction of 1% of people will pay an estate tax. The practical elimination of federal and CT estate tax greatly simplifies estate planning.

Many people who prepared wills and trusts within the past 20 years included provisions to minimize estate tax. Many of those documents contain provisions requiring the formation of marital and family trusts upon the death of the first spouse. Such trusts add complexity and stress for the surviving spouse. In light of this new freedom from estate tax, we encourage everyone to review their wills and trusts and evaluate whether any changes are warranted.

Upon review and analysis, you might find that a more simplified estate plan makes more sense, perhaps converting back to a more basic, simple will.

Many clients over the past few decades have opted to create revocable living trusts as a means of minimizing probate administration and estate tax. Although the recent changes in the estate tax laws eliminate one of those objectives, it may still make sense to retain the trust as a probate avoidance strategy. Assets owned by a revocable trust do not generally need to be reported to the probate court. It may also be wise to retain the trust in order to provide better protection to your children from the claims of their potential creditors (divorce, business problems, etc.) Bottom line is that everyone has different assets, family situations, and concerns. Our firm prides itself on providing individualized advice tailored to your needs. The use of a cookie cutter approach is not appropriate.

The dramatic increase in the estate tax exemption also impacts lifetime gifting. Many people are aware that they are allowed to gift a specific amount annually “without any problems”. The current federal and Connecticut annual gift tax exclusion amount is \$15,000 to each recipient. However, most people are not aware that this annual exclusion is linked to the large estate tax exemptions. In addition to the annual exclusion gifts, you may also make very large gifts during your lifetime, including houses, vacation homes, rental properties, business interests, stocks, bonds and other assets, without creating any gift or estate tax, provided the aggregate value of such gifts is less than the estate tax exemption. Since most people will not pay any estate tax, it similarly means that most people will never be subject to any gift tax on lifetime transfers. I also hear from my clients that they are confused as to the tax implications to the recipient of a gift. The receipt of a gift is not subject to income tax. When you gift money or other assets to your children or others, they do not declare such items as income on their annual income tax return. These tax law changes allow you the freedom to help your kids in any amount as they need it, rather than be limited by the small annual exclusion. These tax changes also enable clients to consider gifting as a means to better structure ownership of assets so as to minimize the impact of future long-term custodial healthcare care costs associated with aging.

In the immortal words of singer and songwriter Bob Dylan, “the times, they are a changin.” In fact, the only certainty in this world is change. It is important to periodically open your file cabinet, pull out your wills, and read them. Better yet, give us a call to schedule an appointment. We would welcome the opportunity to meet with you to review your family and financial situation, discuss your objectives and concerns, and provide options for you to consider. Our attorneys are counselors and advisors. Please give us a call.

Attorney William J. Dakin has been in private law practice for over thirty years. He is a partner and manages KKC's Probate, Estate Planning, Elder Law, and Taxation practice. Attorney Dakin is also a Certified Public Accountant. You may contact him at 860-812-1741 or email him at wdakin@kkc-law.com.