How Large of an Estate Can a New York Citizen Pass Federal Estate Tax Free?

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When you are traversing a career path the goal is to be financially successful. Hard work and intelligent investing should come with rewards. Indeed, there are some rewards that you do enjoy when you have been able to accumulate a significant store of wealth.

Unfortunately you also expose yourself to a powerful source of asset erosion when you are financially successful.

There is a federal estate tax in the United States, and many people refer to it as the "death tax." Calling it a death tax is not necessarily an exercise in sarcasm. It is actually quite accurate on a particular level.

You pay taxes all of your life on your income, interest and gains. If you're lucky you have something left after paying all of these taxes. While you are alive there is no additional tax levied on these resources simply because they exist.

However, when you pass away the assets are suddenly taxable. They were not taxable until you died. In a very real sense the estate tax is a death tax.

Selective Imposition

There have been a number of different legislative measures introduced that would repeal the federal estate tax. Many people do not think that it is fair or necessary. Aside from the contention that the estate tax is an instance of double taxation there are those who decry its selective imposition.

Everyone does not have to pay the federal estate tax. There is a particular amount that is excluded from the tax. In 2013 this amount is $5.25 million. You can pass this much to your heirs free of the estate tax on the federal level. Anything that you want to transfer that exceeds this amount is potentially subject to the death tax and its 40% top rate.

The critics ask why a small percentage of people have to pay the tax while others do not if it is in fact necessary.

In addition, the amount of the estate tax exclusion has fluctuated wildly over the years. The top rate has fluctuated as well. You and your neighbor may pass away with the same amount of money. But, the two families may face entirely different tax bills depending on the year during which the person in question died.

For example, in 2009 the estate tax exclusion was $3.5 million, and the top rate was 45%.

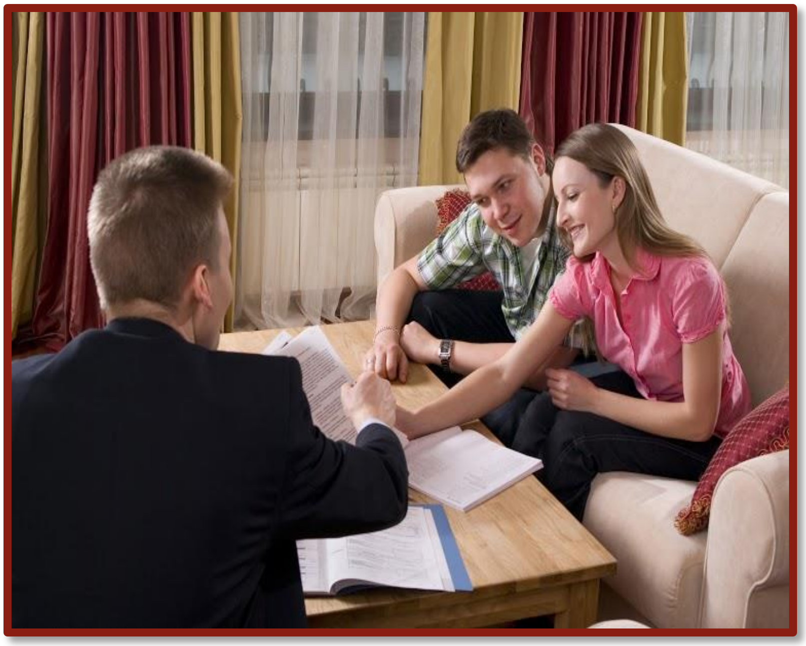
In 2010 the estate tax was repealed entirely for one year. In 2011 the estate tax exclusion was $5 million, and the maximum rate was 35%.

As mentioned previously, the current estate tax exclusion is $5.25 million, and the top rate is 40%.

Depending on when someone died within this timeframe wildly varying estate tax consequences would arise. We are talking about millions of dollars. Many would say that a family's financial legacy should not be subject to a roll of the dice or a spin of the wheel of fortune.

Married Couples: Some of the Facts

The estate tax may or may not be fair, but it is a reality that you must address when you are planning your estate as a high net worth individual. If you are married there are some details that you should be aware of as you plan ahead with tax efficiency in the forefront of your thinking.

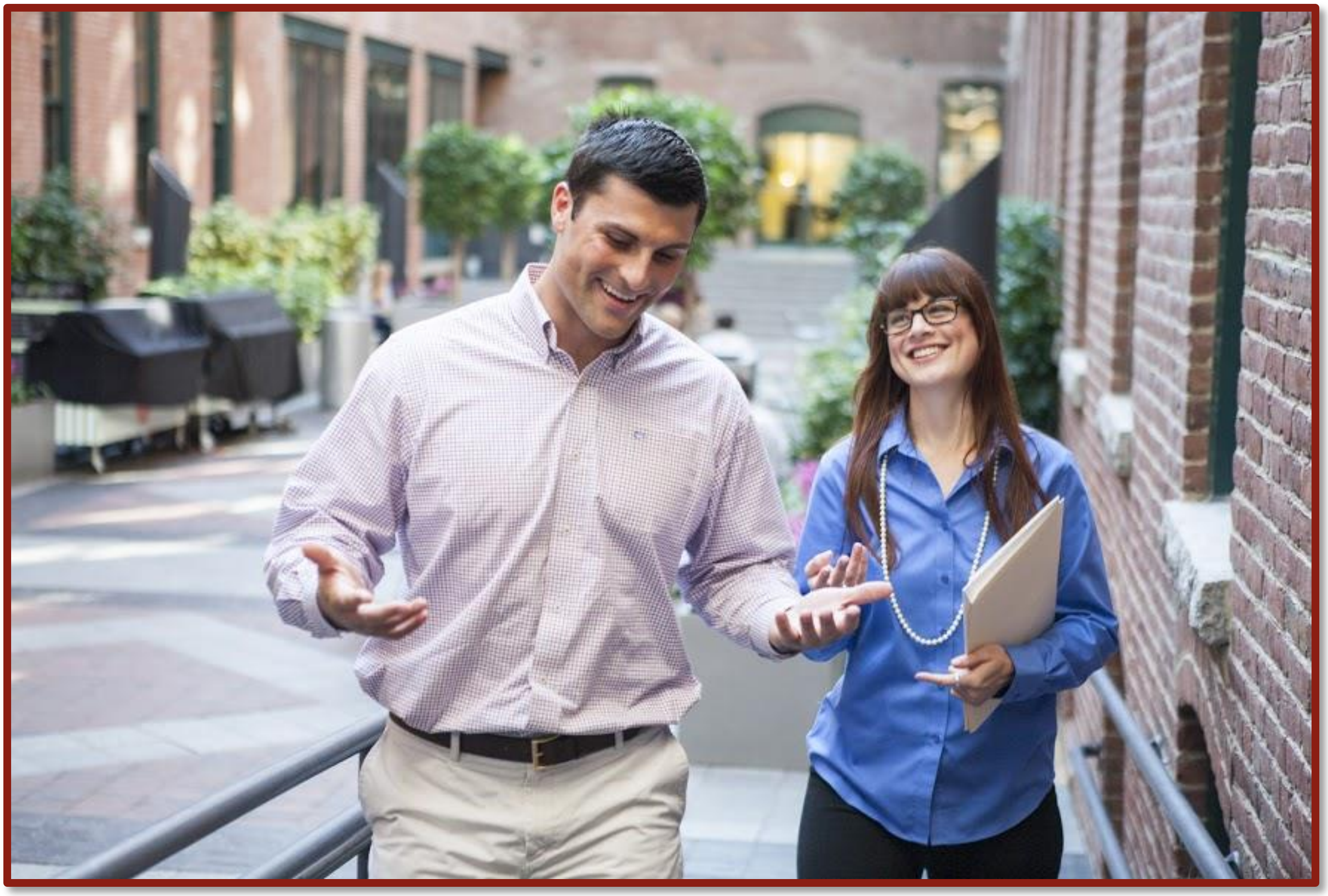


Each person in a marriage has his or her own estate tax exclusion. As a result, there is a total $10.5 million exclusion for a married couple in 2013. Plus, the estate tax exclusion has been portable since the 2011 tax year. If your spouse was to pass away before you it would be possible for you to use his or her exclusion in addition to your own.

This portability provision is not automatically bestowed by the Internal Revenue Service. To take advantage of it Internal Revenue Service Form 706 must be filed within nine months of the death of the decedent to opt-in to portability. If for some reason you needed extra time you could request a six-month extension.

When you are looking at this $5.25 million per person exclusion you should understand the fact that you use it on transfers of assets to people other than your spouse. You can bequeath an unlimited amount of money or property to your spouse free of the federal death tax.

To add an asterisk of sorts to the last paragraph, the unlimited marital deduction is only extended to your spouse if he or she is a citizen of the United States. If you are married to someone who is a citizen of a different country the unlimited marital deduction is not available to your family.



Conclusion

You have to be aware of the amount of the federal estate tax exclusion at all times to be optimally prepared every step of the way. If you don't make adjustments when they become necessary your family could lose a great deal of money.

The estate tax exclusion is $5.25 million in 2013. The maximum rate is 40%. There are inflation adjustments that alter the amount of the exclusion slightly annually.

While there is no particular expiration date for these parameters legislative changes are always possible. In fact, the 2014 budget proposal that has been crafted by the White House includes an increase in the estate tax that would begin in 2018. This proposal calls for a $3.5 million exclusion and a 45% rate.

The wise course of action is to develop an ongoing relationship with a licensed estate planning attorney. Your lawyer will guide you as you create an initial wealth preservation plan. You can then keep in touch over the years and your attorney will recommend the appropriate revisions when and if they become necessary.

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About the Author

Mark S. Eghrari

Mark S. Eghrari is an attorney in private practice in Smithtown, New York. He has been in practice since 1988. Mark S. Eghrari provides extensive estate and tax planning services to individuals and businesses. Mr. Eghrari's primary focus is helping clients avoid probate, minimize or eliminate Federal and State Estate taxes and protect their assets from the high cost of nursing care, if they become ill. Mr. Eghrari's expertise is in providing unique and innovative estate planning solutions that create a secure future for his clients and their loved ones. Mr. Eghrari is a member of the American Bar Association and New York State Bar Association as well as the National Academy of Elder Law Attorneys and the American Academy of Estate Planning Attorneys.

Mr. Eghrari completed his undergraduate work at Lafayette College in Easton, Pennsylvania and received his MBA in banking and finance from Hofstra University on Long Island. He earned his Juris Doctorate from the Hofstra University School of Law, where he was a member of the Law Review. While in law school, Mr. Eghrari gained practical experience in the corporate tax department of Citicorp in New York city.

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